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New Hampshire Code of Administrative Rules
Env-Wm 100-300, 2100-3700 Solid Waste Rules

SOLID WASTE MANAGEMENT
NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES

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CHAPTER Env-Wm 100 ORGANIZATIONAL RULES

Statutory Authority: RSA 149-M:7 and RSA 147-A:3

REVISION NOTE:

Document #5172, effective 7-1-91, repealed Part Env-Wm 1901 entitled "Solid Waste Rules" and replaced that part with rules regulating solid waste which contain extensive changes from the wording, format, and structure of the rules in former Part Env-Wm 1901. Document #5172 contains the following rules:

Parts Env-Wm 101 through Env-Wm 103
 Parts Env-Wm 201 through Env-Wm 205
 Parts Env-Wm 301 through 319
 Chapters Env-Wm 2100 through Env-Wm 2800

The requirements in former Part Env-Wm 1901 have been amended and incorporated into the rules listed above by Document #5172. The rules in former Part Env-Wm 1901 had been amended and renumbered from Part He-P 1901 by Document #4964, effective 10-31-90. Document #5172 supersedes Document #4964 and all prior filings for rules in Part He-P 1901. The prior filings for former Part He-P 1901 include the following documents, where "(E)" indicates emergency rules and "(I)" interim rules:

#218.3, eff 12-27-73)	#4239(E), eff 3-19-87
#2258(E), eff 12-14-82	#4263, eff 6-4-87
#2333, eff 3-31-83	#4394(E), eff 4-8-88
#2462, eff 9-5-83	#4472, eff 8-19-88
#2464, eff 9-5-83	#4842, eff 6-19-90
#2729, eff 5-28-84	#4880(I), eff 7-25-90
#2895, eff 10-30-84	#4964, eff 10-31-90
	#5172, eff 7-1-91

Document #218.3 was the first filing under RSA 541-A for rules by the Division of Public Health Services relating to solid waste management, and it was filed on 12-27-73. There was no further filing relative to solid waste by the Division until #2258, effective 12-14-82, although filings specifically relative to hazardous waste by the Division began with Document #1760, effective 6-3-81. The Department of Environmental Services became operational on January 2, 1987, and filings of documents after that date were made by the Department. See Revision Note at Part heading for Env-Wm 110 for the history of filings relative to hazardous waste.

PART Env-Wm 101 PURPOSE AND APPLICABILITY

Env-Wm 101.01 Purpose. The purpose of the rules in this subtitle is to minimize risks to the environment, public health and safety by assuring proper management of solid waste and hazardous waste.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 101.02 Applicability.

(a) The following rules shall apply to management of solid waste in New Hampshire:

- (1) Env-Wm 101 through Env-Wm 102;
- (2) Env-Wm 201 through Env-Wm 205;
- (3) Env-Wm 301 through Env-Wm 316; and
- (4) Env-Wm 2100 through Env-Wm 3700.

(b) The following rules shall apply to management of hazardous waste in New Hampshire:

- (1) Env-Wm 101 and Env-Wm 110;
- (2) Env-Wm 211 through Env-Wm 216;
- (3) Env-Wm 351 through Env-Wm 353; and
- (4) Env-Wm 400 through Env-Wm 1000.

(c) In the solid waste rules, any requirement that applies to a facility shall be a requirement that applies to the permittee.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 101.03 Solid Waste Exclusions. The solid waste rules shall not apply to the following wastes and materials:

(a) Hazardous waste as defined in RSA 147-A:2, including a solid waste which the generator formally declares in accordance with Env-Wm 502.01(c)(2) to be a hazardous waste and which is subsequently managed as a hazardous waste pursuant to the requirements of RSA 147-A;

(b) Solid or dissolved materials in irrigation return flows;

(c) Cut or uprooted stumps buried on-site with local approval, if required, provided that such burial locations are not located within 75 feet of any drinking water supply;

(d) Municipal and industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended;

(e) Radioactive materials as defined and regulated by the New Hampshire rules for the control of radiation, He-P 2000 and He-P 4000;

(f) Septage as defined in RSA 485-A:2,IX-a; and

(g) Sludge as defined in RSA 485-A:2,XI-a, namely "solid or semi-solid material produced by water and wastewater treatment processes, provided, however sludge which is disposed at solid waste facilities permitted by the waste management division of department of environmental services shall be considered solid waste and regulated under RSA 149-M," and the solid waste rules;

(h) Yard waste;

(i) Bodies of deceased persons; and

(j) Waste-derived products which are certified for distribution and use pursuant to Env-Wm 3200 and actively managed.

Source. #6619-A, eff 10-29-97

Env-Wm 101.04 Solid Waste Facility Exclusions. The solid waste rules shall not apply to a facility that has demonstrated to the department, by complying with the registration requirements in Env-Wm 309, that it ceased operating before July 10, 1981.

Source. #6619-A, eff 10-29-97

PART Env-Wm 102 SOLID WASTE RULE DEFINITIONS

Env-Wm 102.01 "Abutter" means "abutter" as defined by RSA 149-M:4,I, namely "any person who owns property adjacent to, or across a road, railroad, or stream from the property on which a solid waste facility may be permitted."

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.02 "Accumulated waste" means the quantity of waste stored at a facility in excess of the storage capacity specified in the permit or permit exemption.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.03 "Active life" means that period of time at a facility during which solid waste is or will be received, processed, treated or disposed, beginning with the date of first waste receipt and ending with the date waste is last received, processed, treated or disposed. The term includes both operating and non-operating days falling between the described beginning and ending points.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.04 "Actively manage" means to handle a waste or material, including waste-derived products and recyclable materials, in a controlled manner without causing:

- (a) A nuisance;
- (b) An adverse effect to the environment, public health and safety;
- (c) Accumulations which have no identifiable destination or value; and
- (d) A loss of material value in the market place due to material damage, degradation and/or contamination.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97; ss by #7224, eff 3-31-00

Env-Wm 102.05 "Amended water" means water to which a chemical wetting agent, such as a surfactant, has been added to improve penetration of the water into asbestos or other materials to limit the potential for airborne particulates.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.06 "Approved bulking agent" means any material which a facility is authorized in the permit or by the solid waste rules to mix with waste to provide, for processing or treatment of the waste, a source of carbon, air spaces and liquid absorption. The term includes waste-derived products certified for distribution and use as a bulking agent pursuant to Env-Wm 3200.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.07 "Applicant" means the person applying for a permit, permit modification, certificate, waiver or other approval pursuant to the solid waste rules and who will be responsible for complying with the provisions of the approval, if granted.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.08 "Application" means information and documentation submitted to the department by an applicant to request a permit, permit modification, certificate, waiver or other approval pursuant to the solid waste rules.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.09 "Approved design capacity" means the quantity of waste a facility is authorized to manage, expressed as follows:

(a) For all facilities, the average weekly tonnage to be received at the facility during the quarter in which the most waste is anticipated to be received, as specified in the permit or the permit exemption;

(b) For processing or treatment or transfer facilities:

(1) The rated through-put capacity of the equipment for processing of solid waste, as specified in the permit or permit exemption; and

(2) The approved storage capacity; and

(c) For landfills, the approved design volume.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.10 "Approved design volume" means the maximum in-place volume of waste, including cover materials, to be received at a landfill during its active life, as specified in the permit or the permit exemption.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.11 "Approved storage capacity" means the maximum quantity of waste which a facility is authorized to store, pending removal, processing, treatment or disposal as specified in the permit or permit exemption.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.12 "Aquifer" means a geological formation, group of formations, or part of a formation, that is capable of yielding usable quantities of groundwater.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.13 "Asbestos" means asbestos as defined by RSA 141-E:2,I, namely "amosite, chrysotile, crocidolite, or asbestiform tremolite, actinolite, or anthophyllite."

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.14 "Asbestos waste" means:

- (a) Solid waste that contains more than one percent asbestos by weight;
- (b) Any asbestos-containing solid waste that is collected in a pollution control device designed to remove asbestos; and
- (c) The entire volume and weight of any waste identified in (a) or (b) above when mixed with any other material or any solid waste.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.15 "Asbestos waste site" means any site that is not permitted to receive asbestos, where asbestos waste, either on the surface or subsurface, is located.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.16 "Authorized facility" means a facility holding all requisite federal, state or local permits, licenses or approvals. As applied to a New Hampshire facility, the term includes both permitted facilities and permit-exempt facilities which hold all requisite federal and local permits, licenses or approvals.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.17 "Authorized waste" means a waste that is approved by the department for receipt by a facility, as specified in the permit or permit exemption as applicable.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.18 "Base flood" means a flood that has a one per cent chance of being equaled or exceeded in any given year. The term includes "100-year flood."

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.19 "Bill of lading" means a receipt, issued by the transporter, listing waste and/or materials shipped.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.20 "Biologicals" means preparations made from living organisms and their products, including vaccines and cultures, intended for use in diagnosing, immunizing and/or treating humans or animals or in research pertaining thereto.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.21 "Body fluids" means liquid emanating or derived from humans and limited to blood, cerebrospinal, synovial, pleural, peritoneal and pericardial fluids and semen and vaginal secretions.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.22 "Bottom ash" means the ash residue remaining after combustion of solid waste, fossil fuel, wood, sludge or other materials in an incinerator that is discharged through and from the grates, combustor or stoker.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.23 "Bulky waste" means large items that cannot be handled by normal solid waste processing, collection or disposal methods, such as appliances, furniture, large auto parts, tires, and, when they are not buried on-site in accordance with RSA 149-M:4,XXII, tree stumps.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.24 "Bypass waste" means any waste that is delivered to a processing or treatment facility but cannot be processed or treated by the facility. The term includes downtime waste, excess waste, unsuitable waste, and accumulated waste.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.25 "Call" means action by the department to invoke the provisions of a temporary permit requiring the permittee to either commence the facility closure process or the process for obtaining a permanent permit issued pursuant to RSA 149-M and the solid waste rules for continued operation of the facility.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.26 "Cap" means the final cover placed over solid waste at a landfill to minimize the amount of precipitation contacting the solid waste, to prevent contact with the solid waste and to assist in the collection of landfill gas.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.27 "Capacity needs" means the amount of facility capacity identified as necessary to accommodate the management of solid waste for:

(a) The state, as contained in the most recent version of the state solid waste plan required by RSA 149-M:6,VI; and

(b) A solid waste management district, as contained in the most recent version of that district's solid waste plan required by RSA 149-M:24,IV.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.28 "Cell" means, within a landfill, the smallest unit of subdivided area which is surrounded by berms that hydraulically separate the cell, when active, from other cells of the landfill when such other cells have not yet received wastes or been constructed.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.29 "Certified operator" means an individual certified pursuant to Env-Wm 3300.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.30 "Certified waste-derived product" means a waste-derived product certified for distribution and use pursuant to Env-Wm 3200.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.31 "Class A compost" means compost meeting the criteria specified in Env-Wm 2305.05.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.32 "Class AA compost" means compost produced from the following source-separated wastes and materials only:

- (a) Yard waste and farming crop residuals;
- (b) Food waste;
- (c) Animal manure; and/or
- (d) Approved bulking agents, including waste-derived products certified for distribution and use as a composting bulking agent pursuant to Env-Wm 3200.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97; ss by #6894-A, eff 12-1-98

Env-Wm 102.33 "Closure" means the procedures used to permanently cease use of a facility, or portion thereof, in a manner that will minimize future risks of environmental damage and includes all required post-closure inspection, monitoring and maintenance activities.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.34 "Coefficient of permeability" means saturated hydraulic conductivity and is the rate of laminar flow of water through a unit cross-sectional area of porous medium under a unit hydraulic gradient at a standard temperature.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.35 "Collection, storage and transfer facility means a facility which collects waste from any location, stores the waste for a limited period of time and subsequently transfers the waste to another location without having changed the characteristics of the waste as received except by having sorted, packaged and/or compacted the waste. The term includes "transfer station" as defined by Env-Wm 102.170, "recycling facility" as defined by Env-Wm 102.136, stockpiles of waste, and collection devices such as dumpsters.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.36 "Combined ash" means a mixture of bottom ash and fly ash.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.37 "Commercial facility" means a facility which receives waste from an unlimited service area. The term does not include limited public and limited private facilities.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.38 "Commissioner" means the commissioner as defined by RSA 149-M:4,III, namely "the commissioner of the department of environmental services."

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.39 "Compost" means "compost" as defined by RSA 149-M:4,IV, namely "a stable, humus-like substance which is derived from a process involving the biological decomposition of any readily biodegradable material, such as animal manure, garbage, yard waste, septage, sludge, or other organic solid wastes, and which can be beneficially reused for land application."

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.40 "Composting facility" means a facility which produces compost.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.41 "Confidential business information" means information that is exempt from disclosure under RSA 91-A:5,IV.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.42 "Construction and demolition debris" means non-putrescible waste building materials and rubble which is solid waste resulting from the construction, remodeling, repair or demolition of structures or roads. The term includes but is not limited to, bricks, concrete and other masonry materials, wood, wall coverings, plaster, dry wall, plumbing, fixtures, non-asbestos insulation or roofing shingles, asphaltic pavement, glass, plastics that are not sealed in a manner that conceals other wastes and electrical wiring and components, incidental to any of the above and containing no hazardous liquid or metals. The term does not include asbestos waste, garbage, corrugated container board, electrical fixtures containing hazardous liquids such as fluorescent light ballasts or transformers, furniture, appliances, tires, drums and containers, and fuel tanks.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.43 "Contingency plan" means a document describing organized, planned, and technically-coordinated courses of action to be followed by a facility in case of emergency or other special conditions, such as equipment breakdowns; fire; odor; vectors; explosion; spills; receipt or release of hazardous or toxic materials or substances; groundwater, surface water or air contamination attributable to a facility; and other incidents that could threaten human health or safety or the environment.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.44 "Council" means the waste management council established by RSA 21-O:9.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.45 "Cover material" means soil or other functionally equivalent material that is placed over solid waste at a landfill. The term does not include materials used to construct a landfill capping system.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.46 "Department" means "department" as defined by RSA 149-M:4,V, namely "the department of environmental services."

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.47 "Designated river" means that portion of a river which has been specifically designated by the general court pursuant to RSA 483:15.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.48 "Director" means the director of the division of waste management.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.49 "Discharge" means the accidental or intentional release, spilling, leaking, pumping, pouring, emitting, emptying, or dumping of any solid waste or solid waste constituent, including leachate, into or on any air, land or water.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.50 "Disposal" means "disposal" as defined by RSA 149-M:4,VI, namely "the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or onto any land or water with the possible result that such solid waste or any constituent of it may enter the environment, be emitted into the air, or be discharged into any waters, including groundwater."

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97; ss by #6894-A, eff 12-1-98

Env-Wm 102.51 "District" means "district" as defined by RSA 149-M:4,VII, namely "a solid waste management district established under "RSA 149-M:24".

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.52 "District plan" means "district plan" as defined by RSA 149-M:4,VIII, namely "the plan developed for waste management within a district, and approved by the department."

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.53 "Division" means the division of waste management within the department of environmental services.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.54 "Dormant application" means an application for which the applicant has failed to submit the information required to complete the application within 12 months of the date the application is first deemed incomplete by the department.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.55 "Downtime waste" means any processable or treatable solid waste accumulated during a scheduled or unscheduled shut-down of facility operations.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.56 "Emergency permit" means a permit issued pursuant to the solid waste rules which authorizes waste management activities at a facility for a limited period of time in response to an emergency for which no other readily available response exists and for which a delayed response to obtain another type of permit would result in an unnecessary risk to public health, safety or the environment.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.57 "Emergency permit facility" means a facility authorized or requiring authorization by issuance of an emergency permit.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.58 "Encapsulant or sealant" means a substance applied to a material, such as friable asbestos, which controls the release of airborne fibers or particles.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.59 "Endangered or threatened species" means any species protected under the Federal Endangered Species Act or under NH RSA 212-A, Endangered Species Conservation Act.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.60 "Environmental monitoring points" means locations, monitoring wells, and devices for sampling air, soil, groundwater or surface water at a facility.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.61 "Excess waste" means solid waste which cannot be processed or treated because the facility is operating at its approved design capacity.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.62 "Expansion" means an increase in the approved design capacity, approved design volume or approved storage capacity of a facility.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.63 "Facility" means "facility" as defined in RSA 149-M:4,IX; namely "a location, system, or physical structure for the collection, separation, storage, transfer, processing, treatment, or disposal of solid waste." The term includes "solid waste facility," "waste management facility" and "solid waste management facility."

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.64 "Facility identification" means, in the context of filing an application or registration pursuant to the solid waste rules, all of the following information for a facility:

- (a) Name;
- (b) Functional classification pursuant to Env-Wm 302;
- (c) Mailing address;
- (d) Permit number, if applicable;
- (e) Location by street address and municipality; and
- (f) If for a facility not yet issued a permit:
 - (1) Local tax map and lot numbers;
 - (2) Deed reference by county, volume and page numbers;
 - (3) A plotting on a United States Geological Survey (USGS) topographic map, or copy thereof, prepared at a scale of 1:24,000 or 1:25,000; and
 - (4) Latitude and longitude of a known fixed point on the site; and
 - (5) Written directions from a known point of reference in the vicinity of the facility site.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.65 "Floodplain" means the land area adjoining inland or coastal waters which is capable of being inundated by a base flood.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.66 "Fly ash" means the ash residue from the combustion of solid waste, fossil fuel, wood, sludge, or other material that is entrained in the gas stream of the incinerator and removed by the air pollution control equipment.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.67 "Footprint" means:

(a) For a permitted landfill or stockpile, the area in which solid waste actually exists or formerly existed, or is proposed to be placed, as authorized in the permit, regardless of whether solid waste has actually been deposited;

(b) For a proposed landfill or stockpile, the area in which solid waste is to be placed as proposed in the permit application; and

(c) For any other landfill or stockpile, the area in which solid waste actually exists.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.68 "Friable asbestos" means "friable asbestos material" as defined by 40 CFR 61, namely "any material containing more than one percent asbestos as determined using the method specified in appendix A, subpart F, 40 CFR part 763, section 1, Polarized Light Microscopy, that, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure."

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.69 "Generator" means any person whose act or process produces a waste or whose act first causes waste to be subject to regulation.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.70 "Geocomposite" means a manufactured material using geotextiles, geogrids, geomembranes, or combinations of same, in a laminated or composite form.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.71 "Geogrid" means a netlike polymeric material used with foundation, soil, rock, earth, or any other geotechnical engineering-related material as an integral part of a man-made structure or system to provide reinforcement to soil slopes.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.72 "Geomembrane" means an essentially impermeable membrane used with foundation, soil, rock, earth, or any other geotechnical engineering-related material as an integral part of a man-made structure or system designed to limit the movement of liquid or gas into or out of the system.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.73 "Geonet" means a type of a geosynthetic that allows planar flow of liquids.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.74 "Geosynthetics" means the generic classification of all synthetic materials used in geotechnical engineering applications, including geotextiles, geogrids, geomembranes, and geocomposites.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.75 "Geotextile" means any permeable textile used with foundation, soil, rock, earth or any other geotechnical engineering-related material as an integral part of a man-made structure or system which is designed to act as a filter to prevent the flow of soil fines or other particles into drainage systems, or to provide planar flow for drainage, or to serve as a cushion to protect geomembranes, or to provide structural support.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.76 "Groundwater" means water below the land surface in the zone of saturation of soil or rock and includes perched water separated from the main body of groundwater by an unsaturated zone.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.77 "Groundwater table" means the seasonally high surface of groundwater naturally occurring at atmospheric pressure.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.78 "Hazardous waste" means hazardous waste as defined by RSA 147-A:2,VII, namely "a solid, semi-solid, liquid or contained gaseous waste, or any combination of these wastes:

(a) Which, because of either quantity, concentration, or physical, chemical, or infectious characteristics may:

(1) Cause or contribute to an increase in mortality or an increase in irreversible or incapacitating reversible illness; or

(2) Pose a present or potential threat to human health or the environment when improperly treated, stored, disposed of, or otherwise mismanaged.

(b) Or which has been identified as a hazardous waste by the department using the criteria established under RSA 147-A:3,I or as listed under RSA 147-A:3,II. Such wastes include, but are not limited to, those which are reactive, toxic, corrosive, ignitable, irritants, strong sensitizers or which generate pressure through decomposition, heat or other means. Such wastes do not include radioactive substances that are regulated by the Atomic Energy Act of 1954, as amended."

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-A, eff 10-29-97

Env-Wm 102.79 "Hazardous waste rules" means the rules found in Env-Wm 101, Env-Wm 110, Env-Wm 211 through Env-Wm 216, Env-Wm 351 through Env-Wm 353 and Env-Wm 400 through Env-Wm 1000.

Source. #6619-A, eff 10-29-97

Env-Wm 102.80 "Hearing" means "hearing" as defined by RSA 149-M:4,X, namely "the opportunity for the submission of written or oral comments, or both."

Source. #6619-A, eff 10-29-97

Env-Wm 102.81 "High level disinfection" means inactivation of all vegetative bacteria, fungi, lipophilic/hydrophilic viruses, parasites and mycobacteria at a 6 Log₁₀, or a million-fold, reduction or greater.

Source. #6619-A, eff 10-29-97

Env-Wm 102.82 "Household hazardous waste" means hazardous waste generated from non-commercial usage by persons in their living abodes.

Source. #6619-A, eff 10-29-97

Env-Wm 102.83 "Household infectious waste" means infectious waste generated from non-commercial medical treatment of individuals in personal residences, such as needles from self-administered insulin treatments.

Source. #6619-A, eff 10-29-97

Env-Wm 102.84 "Identification of parties" means, in the context of filing an application or registration pursuant to the solid waste rules, all of the following information for the applicant or registrant, facility operator and property owner:

(a) If an individual, the individual's name, date of birth, mailing address and telephone number; or

(b) If other than an individual:

(1) The information required by RSA 149-M:10,I(b); and

(2) The name, title, mailing address and telephone number of the individual associated with and designated by the identified party to be the contact individual for matters concerning the application or registration being filed.

Source. #6619-A, eff 10-29-97

Env-Wm 102.85 "Imminent hazard" means any condition or practice which presents a substantial and immediate threat to human health, safety or the environment.

Source. #6619-A, eff 10-29-97

Env-Wm 102.86 "Impermeable" means not permitting passage through a substance which, when used in the solid waste rules to describe any soil or geosynthetic component of a landfill liner or cap, means the component has a saturated hydraulic conductivity of 1×10^{-7} cm/sec or less.

Source. #6619-A, eff 10-29-97

Env-Wm 102.87 "Incinerator" means "incinerator" as defined by RSA 149-M:4,X-a, namely "a facility which employs a method of using controlled thermal combustion, including flame combustion, to thermally break down waste or other materials, including refuse-derived fuel, to an ash residue that contains little or no combustible materials."

Source. #6619-A, eff 10-29-97; ss by #6894-A, eff 12-1-98

Env-Wm 102.88 "Inert construction and demolition debris" means construction and demolition debris which is comprised of materials that do not degrade, combust or generate leachate.

Source. #6619-A, eff 10-29-97

Env-Wm 102.89 "Infectious agent" means any organism, such as a virus, bacteria, parasite, fungus or other microbial agent which is capable of being communicated by invasion and multiplication in body tissues and body fluids, and capable of causing disease or adverse health impacts in humans.

Source. #6619-A, eff 10-29-97

Env-Wm 102.90 "Infectious waste" means any waste which because of its infectious nature may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

Source. #6619-A, eff 10-29-97

Env-Wm 102.91 "Insignificant effect on environmental quality" means a minimal adverse change in the quality of groundwater, surface water, air quality or public health, either for the short term or the long term.

Source. #6619-A, eff 10-29-97

Env-Wm 102.92 "Land owner" means the record owner of a parcel of land upon which a facility is or is proposed to be located.

Source. #6619-A, eff 10-29-97

Env-Wm 102.93 "Landfill reclamation" means the excavation of a portion or all of a landfill for the purpose of reducing landfill volume; reducing closure and post-closure costs by complete or partial removal of the landfill; creating capacity; and/or reducing adverse environmental impacts through the mining and separation of waste and soils into recyclable, reusable and/or combustible components. The term does not include recontouring, regrading or relocating existing waste at a landfill to reduce the landfill footprint and/or to achieve final grades.

Source. #6619-A, eff 10-29-97

Env-Wm 102.94 "Landfill" means a facility which collects and disposes of waste by landfilling methods. The term includes facilities that collect and store waste indefinitely. The term does not include incinerators, land application sites, surface impoundments and injection wells.

Source. #6619-A, eff 10-29-97

Env-Wm 102.95 "Landfilling" means a method of disposing of solid waste, by the intentional placement of the solid waste in or on land where it will remain after closure.

Source. #6619-A, eff 10-29-97

Env-Wm 102.96 "Leachate" means a liquid, including any suspended components in the liquid, which has contacted or passed through solid waste.

Source. #6619-A, eff 10-29-97

Env-Wm 102.97 "Lift" means a layer of compacted solid waste and the cover material immediately above it in a landfill or other land disposal site.

Source. #6619-A, eff 10-29-97

Env-Wm 102.98 "Limited private facility" means a type of "private facility" as defined by RSA 149-M:4,XVI and Env-Wm 102.123 that is permitted to receive only wastes generated by permittee.

Source. #6619-A, eff 10-29-97; ss by #6894-A, eff 12-1-98

Env-Wm 102.99 "Limited public facility" means a type of "public facility" as defined by RSA 149-M:4,XVIII and Env-Wm 102.132 that is permitted to receive only wastes generated by sources that are within the permittee's jurisdiction and/or within the jurisdiction of other towns, governmental units, agencies, political subdivisions or districts that have entered into a written agreement with the permittee for management of said waste.

Source. #6619-A, eff 10-29-97; ss by #6894-A, eff 12-1-98; ss by #7224, eff 3-31-00

Env-Wm 102.100 "Limited service" means the service type provided by a public or private facility which, through the conditions of the permit, allows the facility to receive authorized waste from specified sources only.

Source. #6619-A, eff 10-29-97

Env-Wm 102.101 "Liner" means a barrier that restricts the downward or lateral flow of the overlying waste and its constituents, or leachate. Liners can be either natural, for instance clay, or man-made, for instance plastic.

Source. #6619-A, eff 10-29-97

Env-Wm 102.102 "Low permeability cap" means a cap installed for landfill closure with a permeability of not greater than 1×10^{-5} cm/sec.

Source. #6619-A, eff 10-29-97

Env-Wm 102.103 "Lower explosive limit" means the lowest concentration by percentage in air of a flammable gas or vapor in which an explosion can occur upon ignition at 25EC (78EF) at atmospheric pressure.

Source. #6619-A, eff 10-29-97

Env-Wm 102.104 "Manure" means manure as defined by RSA 149-M:4,XI, namely "animal feces and urine with natural organic bedding materials such as hay, sawdust, straw or wood chips, but exclusive of human waste." The term also includes animal feces and urine which are not mixed with bedding or which are mixed with newsprint that has been used as bedding.

Source. #6619-A, eff 10-29-97

Env-Wm 102.105 "Monitoring well" means a well used for the purpose of sampling groundwater and/or measuring groundwater elevations.

Source. #6619-A, eff 10-29-97

Env-Wm 102.106 "Monofill" means a landfill or landfill cell into which only one type of waste is placed.

Source. #6619-A, eff 10-29-97

Env-Wm 102.107 "Mixed municipal solid waste" means municipal solid waste that is not separated by type.

Source. #6619-A, eff 10-29-97

Env-Wm 102.108 "Municipal solid waste" (MSW) means solid waste generated at residences, commercial or industrial establishments, and institutions, but excluding construction and demolition debris, automobile scrap and other motor vehicle waste, infectious waste, asbestos waste, contaminated soil and other absorbent media and ash other than ash from household stoves.

Source. #6619-A, eff 10-29-97

Env-Wm 102.109 "New facility" means a facility not existing as of October 29, 1997. The term includes proposed facilities and landfill expansions beyond the footprint boundaries.

Source. #6619-A, eff 10-29-97

Env-Wm 102.110 "Non-friable asbestos" means any asbestos material which does not contain friable asbestos.

Source. #6619-A, eff 10-29-97

Env-Wm 102.111 "Non-friable category I asbestos" means "category I nonfriable asbestos containing material (ACM)" as defined in 40 CFR 61, namely "asbestos-containing packings, gaskets, resilient floor covering, and asphalt roofing products containing more than one percent asbestos as determined using the method specified in appendix A, subpart F, 40 CFR part 763, section 1, Polarized Light Microscopy."

Source. #6619-A, eff 10-29-97

Env-Wm 102.112 "Non-friable category II asbestos" means "category II nonfriable asbestos containing material (ACM)" as defined in 40 CFR 61, namely "any material, excluding Category I nonfriable ACM, containing more than one percent asbestos as determined using the methods specified in appendix A, subpart F, 40 CFR part 763, section 1, Polarized Light Microscopy that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure."

Source. #6619-A, eff 10-29-97

Env-Wm 102.113 "Non-landfill facility" means a facility which is not a landfill, including collection, storage and transfer facilities, processing or treatment facilities and land application sites.

Source. #6619-A, eff 10-29-97

Env-Wm 102.114 "Nonpoint sources" means pollution sources that are diffuse by nature, in that the pollution emitted does not normally enter the environment by discrete conveyances as do point sources. Nonpoint sources of pollution potentially result from activities associated with agriculture, silviculture, mining of sand and gravel, urban storm runoff, urban and rural construction, subsurface disposal systems, deicing salts from highways, and sludge, septage and solid waste disposal on the land.

Source. #6619-A, eff 10-29-97

Env-Wm 102.115 "Open burning" means "open burning" as defined by 40 CFR 61, namely "the combustion of solid waste without:

- (a) Control of combustion air to maintain adequate temperature for efficient combustion;
- (b) Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and
- (c) Control of the emissions of the combustion products."

Source. #6619-A, eff 10-29-97

Env-Wm 102.116 "Owner" means a person who owns a facility or part of a facility.

Source. #6619-A, eff 10-29-97

Env-Wm 102.117 "Permit" means "permit" as defined by RSA 149-M:4,XIV, namely "an authorization from the department for the construction and operation of a facility."

Source. #6619-A, eff 10-29-97

Env-Wm 102.118 "Permit-by-notification" means a permit, obtained after supplying notification in accordance with the requirements of Env-Wm 311, authorizing the construction and operation of certain solid waste facilities as prescribed in Env-Wm 2107, Env-Wm 2207, Env-Wm 2307, Env-Wm 2407 and Env-Wm 2509.

Source. #6619-A, eff 10-29-97

Env-Wm 102.119 "Permit-by-notification facility" means a facility authorized or requiring authorization by issuance of a permit-by-notification.

Source. #6619-A, eff 10-29-97

Env-Wm 102.120 "Permit-exempt facility" means a facility not required by the solid waste rules to hold a permit issued pursuant to RSA 149-M, as specified by Env-Wm 302.03.

Source. #6619-A, eff 10-29-97

Env-Wm 102.121 "Permitted facility" means a facility with a valid permit issued pursuant to RSA 149-M and the solid waste rules.

Source. #6619-A, eff 10-29-97

Env-Wm 102.122 "Permittee" means a person to whom a permit to operate or construct a facility is issued pursuant to the solid waste rules or, in the case of a permit-exempt facility, the person who is responsible for construction, operation, maintenance, closure and post-closure monitoring of the facility.

Source. #6619-A, eff 10-29-97

Env-Wm 102.123 "Person" means "person" as defined in RSA 149-M:4,XV, namely "any individual, business entity, including a trust, firm, joint stock company, corporation, including a government corporation; partnership; association; government agency; or political subdivision of the state."

Source. #6619-A, eff 10-29-97

Env-Wm 102.124 "Phase" means, within a landfill, an area comprised of 2 or more stages and which is surrounded by berms that hydraulically separate the phase from other phases of the landfill when such phases have not yet received wastes or been constructed.

Source. #6619-A, eff 10-29-97

Env-Wm 102.125 "Preliminary plan" means a plan for a proposed activity that provides sufficient information to determine that the proposed activity meets the requirements of the solid waste rules, but does not provide a level of detail or include documentation or features sufficient to implement the proposed activity in compliance with the solid waste rules. The term applies to design plans, operating plans, financial assurance plans, and closure plans for facilities.

Source. #6619-A, eff 10-29-97

Env-Wm 102.126 "Private facility" means a "private facility" as defined in RSA 149-M:4,XVI, namely "one whose permit is held by a person other than a government unit or agency or political subdivision of the state."

Source. #6619-A, eff 10-29-97

Env-Wm 102.127 "Process" means any activity that changes the chemical, biological or physical characteristics of a waste.

Source. #6619-A, eff 10-29-97

Env-Wm 102.128 "Processed recyclable material" means a recyclable material which has been physically sorted and separated by material type, formed into bales or otherwise physically processed and packaged in a manner satisfying the specifications for transportation to and acceptance by a market that will use the material for the production of certified waste-derived products.

Source. #6619-A, eff 10-29-97

Env-Wm 102.129 "Processing or treatment facility" means a facility which collects waste from any location, stores the waste for a limited period of time, subsequently processes or treats the waste, subsequently stores the processed or treated waste for a limited period of time and ultimately transfers the treated or processed waste to another location. The term excludes collection, storage and transfer facilities, landfills and land application sites.

Source. #6619-A, eff 10-29-97

Env-Wm 102.130 "Property owner" means the record owner of the parcel of land and/or structures where a facility is or is proposed to be located. The term includes "landowner" and "facility owner."

Source. #6619-A, eff 10-29-97

Env-Wm 102.131 "Public benefit" means "public benefit" as defined in RSA 149-M:4,XVII, namely "the protection of the health, economy and natural environment of the state of New Hampshire consistent with RSA 149-M:11".

Source. #6619-A, eff 10-29-97

Env-Wm 102.132 "Public facility" means "public facility" as defined in RSA 149-M:4,XVIII, namely "one whose permit is held by a town or other governmental unit or agency or political subdivision of the state, or a combination thereof."

Source. #6619-A, eff 10-29-97

Env-Wm 102.133 "Putrescible material" means any organic material which can decompose and give rise to foul odors and noxious by-products.

Source. #6619-A, eff 10-29-97

Env-Wm 102.134 "Qualified professional engineer" means a person who is a registered professional engineer in New Hampshire and whose formal education, training and experience in the field of engineering falls within the scope of the professional engineering efforts required to be undertaken.

Source. #6619-A, eff 10-29-97

Env-Wm 102.135 "Recyclable materials" means "recyclable materials" as defined in RSA 149-M:4,XIX, namely "materials that can be used to produce marketable goods, including but not limited to separated clear and colored glass, aluminum, ferrous and nonferrous metals, plastics, corrugated cardboard, motor vehicle batteries, tires from motor vehicles, and paper." The term does not include:

- (a) Hazardous waste, hazardous air pollutants, and other waste not regulated as solid waste, as identified in Env-Wm 101.03;
- (b) Waste identified as non-reusable in Env-Wm 2600, including asbestos and infectious waste; and
- (c) Wastes from an unspecified production or generation process, such as municipal solid waste incinerator ash and contaminated soils or absorbent media.

Source. #6619-A, eff 10-29-97

Env-Wm 102.136 "Recycling facility" means a collection, storage and transfer facility which collects, stores and prepares recyclable materials for market and transfers processed recyclable materials to markets for recycling. The term includes "recycling center."

Source. #6619-A, eff 10-29-97

Env-Wm 102.137 "Recycling" means "recycling" as defined by RSA 149-M:4,XX, namely "the collection, storage, processing and redistribution of recyclable materials." The term excludes the

redistribution of recyclable materials for any purpose constituting disposal as defined in RSA 149-M:4,VI, incineration or another purpose not directly related to the production of certified waste-derived products.

Source. #6619-A, eff 10-29-97

Env-Wm 102.138 "Refuse" means "refuse" as defined by RSA 149-M:4,XXI, namely "any waste product, solid or having the character of a solid rather than a liquid in that it will not flow readily without additional liquid, and which is composed wholly or partly of such materials as garbage, swill, sweepings, cleanings, trash, rubbish, litter, industrial or domestic solid wastes; organic wastes or residue of animals sold as meat; fruit, vegetable or animal matter from kitchens, dining rooms, markets, food establishments or any places dealing in or handling meat, fowl, fruits, grain or vegetables; offal, animal excreta, or the carcasses of animals; brick, plaster or other waste matter resulting from the demolition, alteration, or construction of buildings or structures; or accumulated waste material, cans, containers, tires, junk, or other such substances which may become a nuisance." The term does not include yard waste, actively managed waste-derived products which are certified for distribution and use pursuant to Env-Wm 3200, and bodies of deceased persons. The term includes recyclable materials, whether processed or unprocessed.

Source. #6619-A, eff 10-29-97

Env-Wm 102.139 "Representative sample" means a sample collected from a population or whole that exhibits the average or typical properties of the larger population or whole.

Source. #6619-A, eff 10-29-97

Env-Wm 102.140 "Research and development facility permit" means a permit issued pursuant to the solid waste rules authorizing research and development projects.

Source. #6619-A, eff 10-29-97

Env-Wm 102.141 "Research and development permit facility" means a facility authorized or requiring authorization by issuance of a research and development facility permit.

Source. #6619-A, eff 10-29-97

Env-Wm 102.142 "Research and development project" (R&D project) means a scientific study involving the collection, storage, transfer, processing, treatment or disposal of solid waste, that is conducted by one or more investigators, qualified by reason of education and experience, and which is intended to further fundamental knowledge, evaluate processes or technologies, and generate and interpret data relative to solid waste management.

Source. #6619-A, eff 10-29-97

Env-Wm 102.143 "Residual waste" means solid waste remaining after processing, treatment or disposal of solid waste or as a by-product of processing or treatment or disposal of solid waste, including leachate, decomposition gases and waste-derived products not certified for distribution and use pursuant to Env-Wm 3200. The term includes "residuals."

Source. #6619-A, eff 10-29-97

Env-Wm 102.144 "Reuse" means the act of placing a waste into service again, subsequent to its generation.

Source. #6619-A, eff 10-29-97

Env-Wm 102.145 "Runoff" means the liquid that drains from an area as surface flow.

Source. #6619-A, eff 10-29-97

Env-Wm 102.146 "Salvaged item or material" means an item or material which has been recovered or diverted from the solid waste stream and, without processing or treatment except for incidental cleaning, reconditioning or repair, is or will be used in a manner consistent with its original purpose. Examples include

used auto parts which are removed from the vehicle and reused as auto parts on another vehicle; used furniture pieces which are repaired or restored for use as furniture; used tools or equipment which are reconditioned and returned to use as tools or equipment; left-over latex paint used as paint; scrap fabric used as fabric; scrap lumber used as lumber; and used brick used as brick.

Source. #6619-A, eff 10-29-97

Env-Wm 102.147 "Saturated hydraulic conductivity" means the rate of laminar flow of water through a unit cross-sectional area of porous medium under a unit hydraulic gradient at a standard temperature. The term includes "coefficient of permeability."

Source. #6619-A, eff 10-29-97

Env-Wm 102.148 "Saturated zone" means that part of the earth's crust in which the interconnected voids are filled with water at a pressure equal to or greater than atmospheric pressure. The term includes "zone of saturation."

Source. #6619-A, eff 10-29-97

Env-Wm 102.149 "Select recyclable material" means a recyclable material comprised of one of the following materials: paper, cardboard, glass, plastic, ferrous metal, non-ferrous metal, or textile materials.

Source. #6619-A, eff 10-29-97; ss by #6894-A, eff 12-1-98

Env-Wm 102.150 "Service area" means the area(s) or place(s) from which a facility receives waste, typically identified by geographic location or by generator source, or a combination thereof.

Source. #6619-A, eff 10-29-97

Env-Wm 102.151 "service type" means the type of service a facility provides based on the source of waste received, as follows:

- (a) Unlimited service, as is provided by a commercial facility; or
- (b) Limited service, as is provided by either a limited public or limited private facility.

Source. #6619-A, eff 10-29-97

Env-Wm 102.152 "Solid waste" means solid waste as defined by RSA 149-M:4,XXII, namely "any matter consisting of putrescible material, refuse or residue from an air pollution control facility; and other discarded or abandoned material. It includes solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities. For purposes of this chapter [RSA 149-M] it does not include hazardous wastes as defined in RSA 147-A:2; solid or dissolved materials in irrigation return flows; cut or uprooted tree stumps buried on-site with local approval if required, provided that such burial locations are not located within 75 feet of any drinking water supply; municipal and industrial discharges which are point sources subject to permits under section 402 of the Federal Water Pollution Control Act, as amended; source, special nuclear or by-product materials as defined by the Atomic Energy Act of 1954, as amended; or septage or sludge as defined in RSA 485-A:2,IX-a and XI-a," that is to say sludge which is not disposed at solid waste facilities permitted under RSA 149-M. The term "solid waste" also does not include yard waste, actively managed waste-derived products which are certified for distribution and use pursuant to Env-Wm 3200, and bodies of deceased persons.

Source. #6619-A, eff 10-29-97; ss by #6894-A, eff 12-1-98

Env-Wm 102.153 "Solid waste management" means "Solid waste management" as defined by RSA 149-M:4,XXIII, namely "the systematic administration of activities for the collection, source separation, processing, treatment, transportation, transfer, storage, recovery and disposal of solid waste." The term includes "management of solid waste."

Source. #6619-A, eff 10-29-97

Env-Wm 102.154 "Solid waste facility operator training" means professional and/or technical instruction which supplies the required amount of solid waste management information as provided and approved by the department pursuant to Env-Wm 3300.

Source. #6619-A, eff 10-29-97

Env-Wm 102.155 "Solid waste rules" means those rules found in Env-Wm 101 through Env-Wm 102, Env-Wm 201 through Env-Wm 205, Env-Wm 301 through Env-Wm 316, Env-Wm 2100 through Env-Wm 3700.

Source. #6619-A, eff 10-29-97

Env-Wm 102.156 "Source water protection inventory" means a list, compiled and maintained by the department, which identifies regulated or permitted sites that are known or potential threats to drinking water quality.

Source. #6619-A, eff 10-29-97

Env-Wm 102.157 "source reduction" means "source reduction" as defined in RSA 149-M:4,XXIV, namely "changing industrial processes, technologies and product components with the specific objective of reducing the amount or toxicity of waste at the source."

Source. #6619-A, eff 10-29-97

Env-Wm 102.158 "Source separation" means dividing solid waste into some or all of its component parts at the point of generation.

Source. #6619-A, eff 10-29-97

Env-Wm 102.159 "Stage" means, within a landfill, an area comprised of 2 or more cells and which is surrounded by berms that hydraulically separate the stage, when active, from other stages of the landfill when such other stages have not yet received wastes or been constructed.

Source. #6619-A, eff 10-29-97

Env-Wm 102.160 "Standard permit" means a permit to construct and operate a solid waste facility, issued pursuant to RSA 149-M as follows:

- (a) For a facility permitted on or after October 29, 1997, pursuant to Env-Wm 314;
- (b) For a facility permitted before October 29, 1997, pursuant to the provisions of Env-Wm 307.

Source. #6619-A, eff 10-29-97

Env-Wm 102.161 "Standard permit facility" means a facility authorized or requiring authorization by issuance of a standard permit.

Source. #6619-A, eff 10-29-97

Env-Wm 102.162 "State plan" means "state plan" as defined in RSA 149-M:4,XXVI, namely "the state solid waste management plan developed under RSA 149-M:29."

Source. #6619-A, eff 10-29-97

Env-Wm 102.163 "Storage" means the temporary accumulation, containment or stockpiling of wastes.

Source. #6619-A, eff 10-29-97

Env-Wm 102.164 "Surface water" means "surface waters of the state" as defined by RSA 485-A:2,XIV, namely "streams, lakes, ponds and tidal waters within the jurisdiction of the state, including all

streams, lakes or ponds bordering on the state, marshes, water courses and other bodies of water, natural or artificial."

Source. #6619-A, eff 10-29-97

Env-Wm 102.165 "Tank" means a device designed to contain solid waste in a liquid or gaseous form, including leachate, for storage or transportation.

Source. #6619-A, eff 10-29-97

Env-Wm 102.166 "Temporary permit" means a permit issued prior to October 29, 1997, pursuant to a rule codified as Env-Wm 315 effective July 1, 1991 and amended December 24, 1991.

Source. #6619-A, eff 10-29-97

Env-Wm 102.167 "Temporary permit facility" means a facility holding a temporary permit.

Source. #6619-A, eff 10-29-97

Env-Wm 102.168 "Time of concentration" means the time it takes for runoff to travel from the hydraulically most distant point of the watershed to the design point.

Source. #6619-A, eff 10-29-97

Env-Wm 102.169 "Transfer" means, depending on the context in which it is used:

- (a) Removal of waste from one location to another location; or
- (b) Authorizing a permit to be held by a new permittee, pursuant to the type IV permit modification criteria and procedures in Env-Wm 315.

Source. #6619-A, eff 10-29-97; ss by #7224, eff 3-31-00

Env-Wm 102.170 "Transfer station" means a solid waste collection, storage and transfer facility, which collects, stores and transfers solid waste, including non-recyclable waste.

Source. #6619-A, eff 10-29-97

Env-Wm 102.171 "Treat" means to process a waste by a method or technique that uses an external agent or agents to cause a chemical, biological or physical change, said agents to include heat, chemicals, or incorporation of other substances or materials.

Source. #6619-A, eff 10-29-97

Env-Wm 102.172 "Type of waste" means a category of waste, at least as specific as the following, which describes the belonging waste by its material composition and/or other distinguishing characteristics:

- (a) Ash;
- (b) Bulky waste;
- (c) Construction and demolition debris;
- (d) Hazardous waste;
- (e) Household hazardous waste;
- (f) Household infectious waste;
- (g) Infectious waste;

- (h) Municipal solid waste;
- (i) Putrescible waste;
- (j) Recyclable materials;
- (k) White goods; and
- (l) Yard waste.

Source. #6619-A, eff 10-29-97

Env-Wm 102.173 "Unlimited service" means the service type provided by a commercial facility which, through the conditions of the permit, allows the facility to receive authorized waste from any source, including the spot market.

Source. #6619-A, eff 10-29-97

Env-Wm 102.174 "Unsaturated zone" means the zone between the land surface and the saturated zone in which the void spaces in soil or rock are only partially or intermittently filled with water. The term includes the "zone of aeration."

Source. #6619-A, eff 10-29-97

Env-Wm 102.175 "Unsuitable waste" means waste for which a processing or treatment facility is not designed and which, if processed or treated by that facility, may adversely effect the quality of the products or materials being produced by the facility or the quality of residual waste generated by the facility to the extent that the residuals cannot be managed as required by Env-Wm 2205.

Source. #6619-A, eff 10-29-97

Env-Wm 102.176 "Vector" means any carrier that is capable of transmitting a pathogen from one organism to another including, but not limited to, flies and other insects, rodents, birds, and other vermin.

Source. #6619-A, eff 10-29-97

Env-Wm 102.177 "Waste-derived product" means a material or item which is produced, in whole or in part, using materials or items which are recovered or diverted from the solid waste stream.

Source. #6619-A, eff 10-29-97

Env-Wm 102.178 "Waste reduction" means the reduction of waste at the source by changing industrial processes, technologies, and product components with the specific objective of reducing the quantity or rate at which waste is generated.

Source. #6619-A, eff 10-29-97

Env-Wm 102.179 "Waste shipment record" means a shipping document, originated and signed by the waste generator, which is used to track and substantiate the disposition of waste.

Source. #6619-A, eff 10-29-97

Env-Wm 102.180 "Wetland" means an area that is subject to the jurisdiction of the New Hampshire wetlands council under RSA 482-A.

Source. #6619-A, eff 10-29-97

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Env-Wm 102.181 "White goods" means a generic term for a variety of discarded household appliances, including clothes washers, clothes dryers, stoves, refrigerators, freezers, dishwashers and air conditioners.

Source. #6619-A, eff 10-29-97

Env-Wm 102.182 "Working face" means the portion of a landfill where solid waste is being actively deposited, spread, compacted, and covered.

Source. #6619-A, eff 10-29-97

Env-Wm 102.183 "Yard waste" means leaves, grass clippings, garden debris, and small or chipped branches.

Source. #6619-A, eff 10-29-97

PART Env-Wm 103 RESERVED

Source. #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; rpld by #6619-A, eff 10-29-97

PART Env-Wm 104 - Env-Wm 109 RESERVED

Source. #5172, eff 7-1-91

CHAPTER Env-Wm 200 PROCEDURAL RULES

Statutory Authority: RSA 149-M:7 and RSA 147-A:3

PART Env-Wm 201 APPLICABILITY

Env-Wm 201.01 Applicability.

(a) The rules in Env-Wm 201 through Env-Wm 205 shall apply to all procedures undertaken pursuant to RSA 149-M and the solid waste rules.

(b) The rules in Env-Wm 211 through Env-Wm 216 shall apply to all procedures undertaken pursuant to RSA 147-A and the hazardous waste rules.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

PART Env-Wm 202 WAIVER OF SOLID WASTE RULES

Env-Wm 202.01 Purpose. The solid waste rules are intended to apply to a variety of conditions and uses. It is recognized that strict compliance with all solid waste rules may cause hardship or not fit every conceivable situation. The department therefore establishes these procedures and criteria to accommodate those situations where strict adherence would not be in the best interest of the public.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 202.02 Procedures.

(a) Any person who is or would be directly and adversely affected by the strict application of a solid waste rule may apply for a waiver thereof.

(b) Each application for a waiver shall be filed in writing as specified in Env-Wm 303.

(c) Each application for a waiver shall include the information specified in Env-Wm 202.03.

(d) All waiver applications which are submitted as part of an application for a permit or permit modification shall be submitted with such permit or permit modification application, or as soon thereafter as the need for the waiver is identified by the applicant or the department.

(e) Applications for waiver shall be processed in accordance with Env-Wm 304.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 202.03 Application Content and Format.

(a) The applicant for waiver shall provide the following information in the application, compiled in the order shown:

- (1) Identification of the applicant, including name, mailing address and telephone number;
- (2) Identification of the facility or activity to which the request relates;
- (3) Identification of the specific section(s) of the solid waste rules from which a waiver is sought;

(4) A full explanation of why a waiver is being requested, including an explanation of the hardship that would be caused by compliance with the rule;

(5) A full explanation of the alternate procedure, method, or other activity that is sought to be substituted for the procedure, method or other activity that is required by the rule from which a waiver is being sought, including written documentation and/or data to support the alternative;

(6) The limit of duration requested for the waiver, if any;

(7) A full explanation of why the applicant believes that having the waiver granted will meet the criteria in Env-Wm 202.04; and

(8) Proof of providing notices of filing as required by (b) and (c), below.

(b) If the requested waiver relates to a specific facility, the applicant shall notify the abutters, host municipality, host solid waste district and other affected entities, if any, as specified in Env-Wm 303.

(c) If the request is for a waiver to a set-back to a residence or property line, the applicant shall provide a notice of filing to the affected property owner as specified in Env-Wm 303.

(d) If the application for waiver is being submitted as part of an application for a permit or permit modification, the notice of filing may be combined with any required notice of filing for the permit application, as specified by Env-Wm 303.

(e) Applications for waiver shall be signed by the applicant and the property owner as specified in Env-Wm 303.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 202.04 Criteria.

(a) Subject to (b), below, a request for a waiver shall be granted if:

(1) Exemption from complying with the rule shall:

a. Not result in an adverse effect to the environment or natural resources of the state, public health or to public safety;

b. Not result in an impact on abutting properties that is more significant than that which would result from complying with the rule; and

c. Be in keeping with the intent and purpose of the rule being waived; and

(2) One or more of the following conditions is satisfied:

a. Strict compliance with the rule will result in an adverse effect on the environment, public health and safety;

b. Strict compliance with the rule will result in a circumvention of the goals and objectives of the state's solid waste management program, as specified in RSA 149-M:1 through 3 and the state solid waste management plan; or

c. Strict compliance with the standard will provide no benefit to the public and will cause an operational or economic hardship to the applicant.

(b) Economic, technological, practical application and safety issues shall be considered in evaluating a demonstration of the above criteria; however, the application of standards shall not be weighed solely on the basis of cost.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 202.05 Decision on the Application. The department shall make a decision on an application for waiver in accordance with Env-Wm 305.

Source. #6619-B, eff 10-29-97

PART Env-Wm 203 CLAIMS OF CONFIDENTIALITY

Env-Wm 203.01 Purpose. The purpose of this part is to provide a mechanism by which a person who submits information to the department can protect confidential business information or trade secrets.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97; ss by #7225, eff 3-31-00

Env-Wm 203.02 Applicability. Subject to Env-C 208.05, any person submitting information to the department may make a claim of confidentiality for all confidential business information, or any part thereof, pursuant to the criteria and procedures of Env-C 208.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97; ss by #7225, eff 3-31-00

Env-Wm 203.03 Procedure.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97; rpld by #7225, eff 3-31-00

Env-Wm 203.04 Exceptions.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97; rpld by #7225, eff 3-31-00

Env-Wm 203.05 Release or Other Use of Information.

Source. #6619-B, eff 10-29-97; rpld by #7225, eff 3-31-00

PART Env-Wm 204 NON-ADJUDICATIVE PUBLIC HEARINGS

Env-Wm 204.01 Applicability. Non-adjudicative public hearings shall be held in the following cases:

- (a) When proposing to adopt solid waste rules;
- (b) Before initiating eminent domain proceedings, pursuant to RSA 149-M:21;
- (c) To receive oral public comment on a permit application pursuant to Env-Wm 304;
- (d) For any matter, which is not a contested case, for which the department is required by law or by the solid waste rules to hold a hearing; and
- (e) For any matter normally not requiring public participation but deemed by the department to have significant public interest.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 204.02 Procedure. The procedures for a non-adjudicative public hearing shall be as specified in Env-C 203 and Env-Wm 304.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

PART Env-Wm 205 ADJUDICATIVE HEARINGS

Env-Wm 205.01 Applicability. An adjudicative hearing shall be held by the department in the following cases:

(a) To give a permittee or other affected party an opportunity to show cause why the department should not proceed with a proposed decision to suspend or revoke any permit under RSA 149-M and the solid waste rules; and

(b) In any other case that is a contested case as defined by RSA 541-A.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 205.02 Procedure. The procedures for an adjudicative public hearing shall be as specified in Env-C 202.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by INTERIM, #6535, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

PARTS Env-Wm 206 Env-Wm 210 RESERVED

Source. #5172, eff 7-1-91

CHAPTER Env-Wm 300 PERMITS

Statutory Authority: RSA 149-M:7 and RSA 147-A:3

PART Env-Wm 301 PURPOSE AND APPLICABILITY

Env-Wm 301.01 Purpose. The purpose of the rules in this chapter is to establish provisions for administering:

- (a) A solid waste management facility permit system pursuant to RSA 149-M; and
- (b) A hazardous waste management facility permit system pursuant to RSA 147-A.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 301.02 Applicability.

- (a) The rules in Env-Wm 301 through Env-Wm 316 shall apply to permitting solid waste management facilities.
- (b) The rules in Env-Wm 351 through Env-Wm 353 shall apply to permitting hazardous waste management facilities.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

PART Env-Wm 302 SOLID WASTE FACILITY PERMITS

Env-Wm 302.01 Purpose. The purpose of the rules in this part is to:

- (a) Describe the system of permits established by the solid waste rules for authorizing construction, operation and closure of solid waste management facilities pursuant to RSA 149-M:9; and
- (b) Identify permit-exempt facilities pursuant to RSA 149-M:7,V and RSA 149-M:9,I.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 302.02 Solid Waste Permit Required. Except as provided in Env-Wm 302.03, a facility at which solid waste is collected, stored, transferred, processed, treated and/or disposed shall do so only in accordance with a permit issued by the department pursuant to RSA 149-M:9 and the solid waste rules.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 302.03 Solid Waste Permit Exemptions.

- (a) Pursuant to RSA 149-M:9,I and subject to the provisions of Env-Wm 305.04(b), no permit shall be required to haul or store manure being used as fertilizer including the production of compost.
- (b) Pursuant to RSA 149-M:7,V and subject to the provisions of Env-Wm 305.04(b), no permit shall be required to:

- (1) Collect, store, and transfer a waste as specified in Env-Wm 2108;

- (2) Process or treat a waste, for reuse or other purposes, as specified in Env-Wm 2208, Env-Wm 2308 and Env-Wm 2408;
- (3) Landfill a waste as specified in Env-Wm 2510;
- (4) Land spread ash from the combustion of virgin wood as specified in Env-Wm 3404;
- (5) Manage a waste that has been formally declared by the generator, in accordance with Env-Wm 502.01(c)(2), to be a hazardous waste, provided that the waste is managed in accordance with the requirements of RSA 147-A and rules adopted pursuant thereto;
- (6) Manage virgin wood by above ground methods not including composting, provided that:
 - a. The virgin wood is actively managed;
 - b. Management practices comply with the universal facility requirements in Env-Wm 2700;
 - c. Stockpiles conform to the requirements in Env-Wm 2104.05;
 - d. The virgin wood is not mixed or co-mingled with any other wastes or materials at the waste generation site or any other location; and
 - e. If combusted:
 - 1. The facility burns only brush and slash which measures 5 inches or less in diameter and/or clean, untreated lumber with an end cross-sectional area of 24 square inches or less;
 - 2. A permit to kindle the waste is issued by the forest fire warden pursuant to RSA 227-L:17,II, prior to stockpiling any virgin wood; and
 - 3. Written authorization to operate a brush storage and burn site is issued by the department pursuant to Env-A 1001.04(a), prior to stockpiling any virgin wood;
- (7) Conduct bench scale research and development projects within a building or other location used for research studies, provided that practices comply with the universal facility requirements in Env-Wm 2700;
- (8) Temporarily operate or permanently close a facility which:
 - a. Has obtained interim status in accordance with Env-Wm 308; and
 - b. Complies with the requirements for operating or closing an interim status facility as specified in Env-Wm 308;
- (9) Manage boiler slag from the combustion of coal, destined for use as a raw material for commercial and industrial purposes, provided that:
 - a. The boiler slag is actively managed; and
 - b. Management practices comply with the universal facility requirements in Env-Wm 2700;
- (10) Collect, store, transfer, process, treat, and/or dispose of waste concrete, cement, brick, other inert masonry materials, and/or bituminous concrete, provided that:
 - a. The waste is actively managed;
 - b. Management practices comply with the universal facility requirements in Env-Wm 2700;

- c. The materials comprising the waste are derived from virgin materials only;
 - d. The materials comprising the waste are fully cured;
 - e. The waste is free of any materials or substances that have the potential to leach contaminants to groundwater or surface water or to emit pollutants to the air, including lead paint, asbestos, and chemicals;
 - f. If landfilled, the bituminous concrete waste is not ground or pulverized; and
 - g. The activity occurs after March 30, 1999; and
- (11) Collect, store, and process wooden pallets and wooden crates into wood chips, provided that:
- a. The wood chip is certified for distribution and use pursuant to Env-Wm 3200 and accordingly managed;
 - b. The pallets and crates are actively managed;
 - c. Management practices comply with the universal facility requirements in Env-Wm 2700;
 - d. The pallets and crates comply with the toxics in packaging requirements in RSA 149-M:32 through 40;
 - e. The pallets and crates have not been treated in any way, including painted or stained, except for labeling purposes, or pressure treated;
 - f. The pallets and crates are free of glues and adhesives;
 - g. The pallets and crates are empty;
 - h. The pallets and crates are not otherwise contaminated with foreign substances;
 - i. Stockpiles conform to the requirements of Env-Wm 2104.05; and
 - j. All residual waste resulting from the management of the pallets and crates, including nails and fasteners, is actively managed in accordance with all applicable rules and regulations.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97; ss by #6894-B, eff 12-1-98; amd by #7225, eff 3-31-00

Env-Wm 302.04 Solid Waste Permit Types. The solid waste rules shall establish a permit system comprised of the following permit types:

- (a) Standard permit, pursuant to Env-Wm 314, for a facility meeting each of the following criteria:
 - (1) The facility is not a permit-exempt facility in Env-Wm 302.03;
 - (2) The facility is not eligible for a permit-by-notification pursuant to Env-Wm 2107, Env-Wm 2207, Env-Wm 2307, Env-Wm 2407, or Env-Wm 2509;
 - (3) The facility is not eligible for a research and development permit pursuant to Env-Wm 312;
 - (4) The facility is not eligible for an emergency permit pursuant to Env-Wm 313; and

(5) If the facility is a temporary permit facility, it elects to continue operating following call of the temporary permit and is not a landfill.

(b) Temporary permit, for facilities that obtained temporary permit status prior to October 29, 1997;

(c) Permit-by-notification, pursuant to Env-Wm 311, for certain limited waste management activities, as specified in Env-Wm 2107, Env-Wm 2207, Env-Wm 2307, Env-Wm 2407 and Env-Wm 2509 based on the functional classification of the facility;

(d) Research and development facility permit, pursuant to Env-Wm 312, for research and development projects as defined by Env-Wm 102; and

(e) Emergency permit, pursuant to Env-Wm 313, for facilities which operate for a limited period of time in response to an emergency for which no other readily available response exists and for which a delayed response to obtain another type of permit will result in an unnecessary risk to public health, safety or the environment.

Source. #6619-B, eff 10-29-97; amd by #6894-B, eff 12-1-98

Env-Wm 302.05 Solid Waste Facility Types. Facility permits shall be issued on the basis of facility type according to the following facility functional classifications:

(a) Land disposal sites, including landfills, as defined by Env-Wm 102;

(b) Processing or treatment facilities, as defined by Env-Wm 102, including:

(1) Composting facilities; and

(2) Incineration facilities; and

(c) Collection, storage and transfer facilities, as defined by Env-Wm 102, including:

(1) Transfer stations; and

(2) Recycling centers.

Source. #6619-B, eff 10-29-97

Env-Wm 302.06 Permitting System Criteria. The following factors shall be used in the solid waste rules to determine the applicable permitting requirements:

(a) The type of permit;

(b) Duration of facility operations;

(c) The functional classification of a facility; and

(d) The type of waste handled by the facility.

Source. #6619-B, eff 10-29-97

PART Env-Wm 303 FILING PROVISIONS FOR APPLICATIONS, REGISTRATIONS AND REPORTS

Env-Wm 303.01 Purpose. The purpose of the rules in this part is to specify requirements for filing applications, registrations and reports required by the solid waste rules.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 303.02 Applicability.

(a) The rules in this part shall apply to all persons filing the following applications on or after October 29, 1997:

- (1) New permits, pursuant to Env-Wm 311 through Env-Wm 314;
- (2) Modification of existing permits, pursuant to Env-Wm 315, including permit transfer and permit renewal applications; and
- (3) Waivers of any requirement of the solid waste rules, pursuant to Env-Wm 202.

(b) The rules in Env-Wm 303.03 and Env-Wm 303.04 shall also apply to persons filing facility registrations pursuant to Env-Wm 309.

(c) The rules in Env-Wm 303.03 and Env-Wm 303.04 shall also apply to persons filing facility reports required by the solid waste rules, including status reports such as notices of intent to construct or operate, annual reports, quarterly reports for landfills, compliance reports and other facility reporting data specified by the solid waste rules.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 303.03 Basic Filing Requirements.

(a) Applications, registrations and reports shall be prepared:

- (1) On and with such forms as the department provides; or
- (2) If no form is provided pursuant to (1) above, on paper supplied by the applicant in a format consistent with the application content and format requirements specified by the solid waste rules for the particular type of application, registration or report being filed.

(b) Applications, registrations and reports shall be signed as specified in Env-Wm 303.04.

(c) Applications shall be submitted to the department in triplicate, except applications for a permit-by-notification pursuant to Env-Wm 311 and for a type III permit modification pursuant to Env-Wm 315 shall be submitted in quadruplicate, with stamped legal sized envelopes addressed in capital letters to the applicant, the host municipality and host solid waste management district. The envelopes shall bear no return address.

(d) Registrations pursuant to Env-Wm 309 shall be filed in duplicate.

(e) Facility reports shall be filed in duplicate.

(f) All applications shall be submitted with the fee specified in Env-Wm 310, if any.

(g) Applications shall be submitted with the compliance information required by Env-Wm 303.13.

(h) Except as provided in (i) below, all components and copies of an application, registration and report shall be submitted together at the same time.

(i) If the content and format requirements for a particular type of application require the applicant to submit personal and business disclosure information pursuant to Env-Wm 316, the applicant shall:

- (1) Submit the information as specified in Env-Wm 316 direct to the New Hampshire department of justice, office of attorney general (NHDoJ/OAG) on or before the date the balance of the application is submitted to the department; and

- (2) Provide proof thereof to the department with the application.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; amd by #5886-A, eff 8-26-94; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97; amd by #6894-B, eff 12-1-98

Env-Wm 303.04 Signature Requirements.

- (a) Each application, registration and report shall be signed by the applicant, registrant or permittee as applicable.
- (b) If the applicant, registrant or permittee is other than an individual, the application shall be signed by the person(s) duly authorized to sign for the applicant, registrant or permittee as applicable.
- (c) The applicant's, registrant's or permittee's signature shall constitute:
- (1) An affirmation that the material and information submitted is correct and complete to the best of the applicant's, registrant's or permittee's knowledge and belief;
 - (2) An acknowledgment that any approval granted based on false and/or incomplete information shall be subject to revocation or suspension pursuant to Env-Wm 306, and civil or criminal penalties;
 - (3) An agreement to pay the outstanding balance of the application fee due pursuant to Env-Wm 310, if any, upon presentation of an invoice; and
 - (4) For applications not subject to Env-Wm 3100, certification of financial responsibility pursuant to Env-Wm 2705.08(b).
- (d) Each application shall be signed by the owner and land owner, if different than the applicant.
- (e) If the property owner is other than an individual, the application shall be signed by the person(s) duly authorized to sign for the property owner.
- (f) The property owner's signature shall constitute an affirmation that:
- (1) The applicant has, or shall be granted, the legal right to occupy and use the property on which the facility is or will be located for the purposes specified in the application; and
 - (2) The property owner shall grant access to the property for closure and post-closure monitoring of the facility and site as required by the solid waste rules.
- (g) All signatures shall be original signatures on all copies of applications, registrations and reports filed with the department.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97; amd by #6894-B, eff 12-1-98

Env-Wm 303.05 Notice of Filing to Abutters.

- (a) If the application content and format requirements, as provided in Env-Wm 311 through Env-Wm 315, require the applicant to provide a notice of filing to abutters, the applicant shall:
- (1) Provide notice as specified by (b) through (e) below; and

(2) Place a copy of the application at a publicly accessible location, for example the public library or town hall, for public review until final action on the application is taken by the department.

(b) The notice of filing shall be:

(1) Sent by certified mail, return receipt requested; or

(2) Delivered in hand, in which case a signed acknowledgment from the recipient that the notice was received shall be obtained.

(c) The notice of filing shall be sent or delivered before the date the application is filed with the department, but not earlier than 30 days beforehand.

(d) If the applicant or the owner of the facility site owns any abutting parcel of land, the notice of filing shall be sent to the owner(s) of the next parcel(s) not owned by the applicant or facility site owner.

(e) The notice of filing shall include the following information:

(1) A statement that an application is scheduled to be filed with the department, including the type of application being filed and the anticipated filing date;

(2) Facility identification and location, including:

a. Facility name;

b. Permit number, if applicable;

c. Street address; and

d. Municipality;

(3) The name(s) and mailing address(es) of the:

a. Applicant, which in the case of an application for permit transfer shall be both the existing and proposed permittee;

b. Facility owner;

c. Facility operator; and

d. Property owner;

(4) A description of the activity(s) for which approval is being sought, including as applicable:

a. The type(s) of waste management activities to be undertaken at the facility;

b. The quantity and type(s) of waste to be received by the facility;

c. The quantity and type(s) of waste to be stored at the facility;

d. The quantity and type(s) of waste to be disposed at the facility;

e. The facility service area;

f. The facility service type;

g. The facility life expectancy;

h. Other information required to accurately describe the scope and nature of the proposed activity(s); and

i. The estimated date of facility construction and operation;

(5) Identification of the locally accessible place where the application shall be available for public review;

(6) Name, title, mailing address and telephone number of the individual associated with the applicant and available to respond to inquiries during the application review process;

(7) Name, title, mailing address and telephone number of the agency official or employee who may be contacted regarding the application, which name and information shall be provided to the applicant by the department upon request at the time the applicant prepares the notice;

(8) Description of the application processing provisions as specified by the solid waste rules. The description shall be detailed sufficiently as to inform the notice recipient of the basic process steps and schedule. An application process flow chart, as provided by the department upon request, shall suffice;

(9) If the application is for approval to transfer a permit, a statement that the department shall receive written comments from the abutters for a period of 30 days following the date the application is filed; and

(10) If the application includes a request for a waiver to any rule, a statement so indicating and specifically citing the rule(s).

Source. #6619-B, eff 10-29-97

Env-Wm 303.06 Additional Filing Requirements.

(a) The applicant for a permit, permit modification, or waiver to a solid waste rule relating to a specific facility, shall comply with the filing requirements in:

(1) Env-Wm 303.07; and,

(2) Env-Wm 303.08 through Env-Wm 303.12, if applicable;

(b) Each filing required by (a) above shall be:

(1) Sent by certified mail, return receipt requested; or

(2) Delivered in hand, in which case a signed acknowledgment from the recipient that the notice was received shall be obtained.

(c) Each filing required by (a) above shall be made no later than the date the applicant submits the application to the department, but not earlier than 30 days beforehand.

Source. #6619-B, eff 10-29-97

Env-Wm 303.07 Municipality and District.

(a) The applicant for a new permit pursuant to Env-Wm 311 through Env-Wm 314 and a type I, type III and type IV permit modification pursuant to Env-Wm 315 shall provide to each of the following entities a copy of the complete application and a notice of filing containing the information specified in Env-Wm 303.05(e) and, if applicable, (c) below:

(1) The host municipality and other affected municipalities as specified by (b) below, which in the case of:

- a. A town, shall be sent to the town clerk and selectmen;
- b. A city, shall be sent to the city clerk and mayor and city council; and
- c. An unincorporated town or place, shall be sent to the county commissioners; and

(2) The chairperson of the host solid waste management district and other affected districts as specified by (b) below.

(b) If the requested approval directly affects a service provided by a specific municipality(s) and/or district(s) besides the host municipality and/or host solid waste management district, for instance an application to expand or reduce the permitted service area of a limited public facility used or to be used by a non-host municipality or district, then the applicant shall also provide a copy of the application and notice of filing to each municipality and/or district so affected.

(c) If the requested approval involves any activity which is a potential contamination source in a groundwater protection area classified as GAA or GA-1 pursuant to RSA 485-C, the notice sent to the municipality shall also provide the information required by Env-Wm 303.08.

Source. #6619-B, eff 10-29-97; amd by #7225, eff 3-31-00

Env-Wm 303.08 Notice for GAA and GA-1 Groundwater Protection Areas. The applicant for approval for any activity which is a potential contamination source in a groundwater protection area classified as GAA or GA-1 pursuant to RSA 485-C shall provide to the affected local entity as defined by RSA 485-C:2,X:

(a) A copy of the complete application; and

(b) A notice of filing containing:

(1) The information specified in Env-Wm 303.05(e); and

(2) A statement that the department shall suspend action on the application for 30 days following the filing to allow the municipality and local entity to submit written recommendations concerning the proposed project, as provided in RSA 485-C:14.

Source. #6619-B, eff 10-29-97

Env-Wm 303.09 Notices for Areas of Threatened or Endangered Species.

(a) The applicant for any approval relating to a proposed activity located in an area of threatened or endangered species shall provide a copy of the complete application and a notice of filing as specified in (b) below to each of the following entities:

(1) The New Hampshire department of fish and game; and

(2) The New Hampshire department of resources and economic development, national heritage inventory program.

(b) The notice of filing shall contain the following information:

(1) The information specified in Env-Wm 303.05(e); and

(2) A request to submit to the department, within 30 days following the notice of filing, written comments concerning the adequacy of the application relative to protecting threatened or endangered species pursuant to Env-Wm 2702.03.

Source. #6619-B, eff 10-29-97

Env-Wm 303.10 Notice for Airport Proximity. The applicant for approval to manage putrescible waste within the protective radius of certain airports as specified in Env-Wm 2702.04(c) shall provide the following information to the federal aviation administration (FAA):

- (a) A copy of the complete application;
- (b) A notice of filing containing:
 - (1) The information specified in Env-Wm 303.05(e); and
 - (2) A request for the FAA to submit to the department, within 30 days following the notice of filing, written comments concerning the adequacy of the application relative to satisfying the requirements of Env-Wm 2702.04(c).

Source. #6619-B, eff 10-29-97

Env-Wm 303.11 Notice for Designated River Areas.

(a) The applicant for approval of a proposed activity affecting any river or segment designated under RSA 483 shall provide a copy of the complete application and a notice of filing, as specified in (b) below, to:

- (1) The department's rivers coordinator established pursuant to RSA 483:3; and
- (2) The chairman of the applicable local river management advisory committee established pursuant to RSA 483:8.

(b) The notice of filing shall contain:

- (1) The information specified in Env-Wm 303.05(e); and
- (2) A request to submit to the department, within 30 days following the notice of filing, written comments concerning the adequacy of the application relative to satisfying the requirements of RSA 483.

Source. #6619-B, eff 10-29-97

Env-Wm 303.12 Notice to Department of Justice. Applicants required pursuant to Env-Wm 316.02(a) to provide information to the department of justice (DoJ) for background investigation purposes shall provide, with the information, a notice of filing containing the information specified in Env-Wm 303.05(e).

Source. #6619-B, eff 10-29-97

Env-Wm 303.13 Compliance Status and History.

(a) All applicants, except emergency permit applicants, shall submit compliance information with the application, as specified by (b) and (c) below.

(b) Applicants for a permit-by-notification and applicants for a type III permit modification shall submit compliance certification in accordance with Env-Wm 303.14.

(c) Applicants for a standard permit, research and development facility permit, waiver, or a type I, II, IV, or V permit modification shall submit either:

- (1) Compliance certification pursuant to Env-Wm 303.14; or
- (2) If unable to certify compliance pursuant to Env-Wm 303.14, a compliance report pursuant to Env-Wm 303.15.

Source. #6619-B, eff 10-29-97; ss by #6894-B, eff 12-1-98

Env-Wm 303.14 Compliance Certification.

(a) The applicant shall certify that each of the statements listed in (b) below are true for each of the following individuals and entities:

- (1) The applicant;
- (2) The owner;
- (3) The facility operator;
- (4) All individuals and entities holding 10% or more of the applicant's debt or equity;
- (5) All of the applicant's officers, directors, and partners; and
- (6) All individuals and entities having managerial or supervisory or substantial decision-making authority and responsibility for the management of facility operations or the activity(s) for which approval is being sought; and
- (7) For a research and development permit, the lead investigator.

(b) The applicant shall certify that each of the following statements are true:

- (1) No individual or entity listed in (a) above has been convicted of or plead guilty or no contest to a felony in any state or federal court during the 5 years before the date of the application;
- (2) No individual or entity listed in (a) above has been convicted of or plead guilty or no contest to a misdemeanor for a violation of environmental statutes or rules in any state or federal court during the 5 years before the date of the application;
- (3) No individual or entity listed in (a) above has owned or operated any hazardous or solid waste facility which has been the subject of an administrative or judicial enforcement action for a violation of environmental statutes or rules during the 5 years before the date of the application;
- (4) No individual or entity listed in (a) above has been the subject of any administrative or judicial enforcement action for a violation of environmental statutes and rules during the 5 years before the date of the application;
- (5) All hazardous and solid waste facilities owned or operated in New Hampshire by any individual or entity listed in (a) above are in compliance with either:
 - a. All applicable environmental statutes, rules, and department permit requirements; or
 - b. A department approved schedule for achieving compliance therewith;
- (6) All individuals and entities listed in (a) above are in compliance with all civil and criminal penalty provisions of any outstanding consent agreement, settlement, or court order to which the department is a party; and
- (7) All individuals and entities listed in (a) above have paid, or are in compliance with the payment schedule for any administrative fine assessed by the department; and
- (8) All individuals and entities listed in (a) above are in compliance with all terms and conditions under every administrative order, court order or settlement agreement relating to programs implemented by the department.

Source. #6894-B, eff 12-1-98

Env-Wm 303.15 Compliance Report

(a) Applicants unable to certify compliance pursuant to Env-Wm 303.14 shall submit a compliance report as specified by (b) below.

(b) The compliance report shall include:

- (1) A complete explanation of the circumstances which cause any statement in Env-Wm 303.14(b)(1) through (8) to be untrue;
- (2) For each circumstance which causes a statement in Env-Wm 303.14(b)(1) through (8) to be untrue, an explanation as to why the department should not find it to be grounds for denying the requested approval pursuant to the provisions of RSA 149-M:9, IX or X; and
- (3) For each circumstance which causes a statement in Env-Wm 303.14(b)(5) through (8) to be untrue, a plan and schedule by which the applicant proposes to achieve full compliance.

Source. #6894-B, eff 12-1-98

PART Env-Wm 304 APPLICATION REVIEW

Env-Wm 304.01 Applicability.

(a) The rules in this part shall apply to all persons filing applications for the following approvals on or after October 29, 1997:

- (1) New permits pursuant to Env-Wm 311 through Env-Wm 314;
- (2) Modification of existing permits, pursuant to Env-Wm 315, including permit transfer and permit renewal applications; and
- (3) Waivers of any requirement of the solid waste rules, pursuant to Env-Wm 202.

(b) An application of a type identified in (a) above, filed before October 29, 1997 and not yet deemed complete, shall be subject to the provisions of this part.

(c) An application of a type identified in (a) above, filed and deemed complete before October 29, 1997, shall be subject only to the provisions of this part which apply to those steps of the application review process not yet completed.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 304.02 Application Receipt.

(a) Upon receipt of an application, the department shall determine whether the application filing requirements in Env-Wm 303 have been met.

(b) Applications filed contrary to Env-Wm 303 shall not be accepted for processing.

(c) Except as provided in (d) below, an application filed contrary to Env-Wm 303 shall be held by the department while the applicant is notified of the deficiency and given an opportunity to correct the deficiency. If the applicant fails to correct the deficiency within 10 working days or within a mutually agreed time, the department shall return the application as filed, with a written explanation as to the reason(s) for returning the application.

(d) An application for a permit-by-notification pursuant to Env-Wm 311 or for a type III permit modification pursuant to Env-Wm 315, if filed contrary to Env-Wm 303, shall not be held as described in (c) above and shall be denied in accordance with Env-Wm 305.03(c) through (d).

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 304.03 Application Completeness Determination.

(a) Within 60 days after the date an application is filed in accordance with Env-Wm 303, the department shall determine whether the application is complete, namely whether the application satisfies the content and format requirements specified by the solid waste rules for the type of application filed.

(b) If the applicant submits any information to complete or amend the application between the date of initial filing and the date the department determines the application is complete, the 60 day review time shall be measured from the date of latest submittal.

(c) If the application is incomplete, the provisions in Env-Wm 304.04 shall apply.

(d) If the application is complete, the provisions of Env-Wm 304.06 shall apply.

(e) Notwithstanding any other provision of this part, the department shall suspend the processing of any application when required by other provisions of law, including RSA 485-C:14. No portion of the suspension time shall be included in computing the time limits for processing the application.

(f) The department shall not determine that an application is complete until all disclosure forms required pursuant to Env-Wm 316 have been filed by the applicant with the department of justice (DoJ).

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 304.04 Incomplete Applications.

(a) Except as provided in (c) through (e) below, if an application is determined to be incomplete, the department shall provide written notice to the applicant wherein:

(1) The applicant, type of application and all documents that constitute the incomplete application shall be identified;

(2) The deficiencies shall be identified;

(3) Instructions shall be provided for completing the application, including the name, title, mailing address and telephone number of the agency official or employee who may be contacted regarding the application; and

(4) The applicant shall be alerted to the application dormancy provisions specified in Env-Wm 304.05(d).

(b) A copy of the notice of incompleteness shall be sent by the department to all persons and entities to whom the applicant was required to provide a copy of the initial application pursuant to Env-Wm 303.

(c) In the event that an incomplete application provides information sufficient for the department to determine that the proposed activity does not meet the requirements of the solid waste rules and requires substantial revision to meet said requirements, or that any other provision for denial exists as provided in Env-Wm 305, the department shall deny the requested approval and send written notice thereof in accordance with Env-Wm 305, in lieu of deeming the application incomplete.

(d) Applications for permits-by-notification pursuant to Env-Wm 311 and type III permit modifications pursuant to Env-Wm 315, if incomplete upon initial submittal, shall be denied pursuant to Env-Wm 305.03(c) through (e).

(e) If an application is incomplete for incidental versus substantive reasons, the department may so notify the applicant by telephone in lieu of providing a written notice of incompleteness, provided that:

(1) The anticipated time required of the applicant to correct the deficiency shall be less than the anticipated time required of the department to notify the applicant in writing;

(2) The department shall specify in the verbal notice a reasonable time period for correcting the deficiency, after which time written notice shall be sent by the department in accordance with (a) and (b) above, if no response by the applicant is received by the department; and

(3) The department shall specify in the verbal notice that the applicant shall be required to also send a copy of the response, with a cover letter stating the reason for providing the additional information, to all persons and entities identified in Env-Wm 303 to whom the applicant was required to provide a copy of the initial application.

(f) Upon notifying an applicant that the application is incomplete, the department shall suspend further processing of the application pending receipt of the additional information requested.

(g) No portion of the time between the date a notice of incompleteness is provided and the date the applicant responds shall be included in computing the time limits for processing the application.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 304.05 Completing an Incomplete Application.

(a) Information submitted to the department by an applicant to complete an incomplete application shall be filed in accordance with Env-Wm 303 and, if applicable, (b) below.

(b) The applicant shall:

(1) Provide a copy of all information submitted to complete an incomplete application to each person and entity identified in Env-Wm 303 to whom the applicant was required to provide a copy of the initial application; and

(2) Provide to the department a written and signed statement attesting to the same.

(c) Information received to complete an incomplete application shall be reviewed by the department in accordance with Env-Wm 304.02 and Env-Wm 304.03.

(d) The applicant shall submit all information required to complete an incomplete application within one year from the date the application is initially deemed incomplete. An incomplete application that becomes a dormant application as defined by Env-Wm 102 shall be deemed denied without further action by the department.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 304.06 Complete Applications.

(a) When the department determines that an application is complete, the department shall provide written notice to the applicant wherein:

- (1) The applicant, type of application, and all documents that constitute the complete application shall be identified;
- (2) The application shall be deemed complete;
- (3) The dates and arrangements for a public hearing pursuant to Env-Wm 304.08 shall be identified, if known by the time notice of completeness is given; and
- (4) The name, title, mailing address and telephone number of the department official or employee who may be contacted regarding the application shall be provided.

(b) A copy of the notice of completeness shall be sent by the department to all persons and entities to whom the applicant was required to provide a copy of the application pursuant to Env-Wm 303.

(c) A notice of completeness and a notice of decision pursuant to Env-Wm 305 shall be combined, if a public hearing shall not be held and the department has completed a technical review of the application as required by Env-Wm 304.07.

(d) A permit-by-notification pursuant to Env-Wm 311 and a type III permit modification pursuant to Env-Wm 315 shall be approved in accordance with Env-Wm 305 upon determining the application is complete.

(e) A determination of completeness by the department, that is not accompanied by a final decision on the application, shall not be construed as a determination of the viability of the requested approval.

Source. #6619-B, eff 10-29-97

Env-Wm 304.07 Technical Review.

(a) Except as provided in (c) below, a complete application shall undergo a technical review by the department to determine:

- (1) Whether the proposed activity meets all applicable criteria for issuance as specified in the solid waste rules; or
- (2) Whether a condition for denial, as specified in Env-Wm 305, exists.

(b) During the technical review process, the department shall consider all information received from the following sources, as applicable:

- (1) The applicant;
- (2) The abutters, host municipality, host solid waste management district and other affected entities responding to notification given by the applicant pursuant to Env-Wm 303;
- (3) Persons participating in a public hearing pursuant to Env-Wm 304.08, if held; and
- (4) The New Hampshire department of justice pursuant to the provisions of Env-Wm 316.

(c) For applications for a permit-by-notification pursuant to Env-Wm 311 and a type III permit modification pursuant to Env-Wm 315, the department shall not independently assess whether the proposed activity meets all requirements of the solid waste rules and shall rely on the applicant's certification attesting to the same as specified by Env-Wm 311 and Env-Wm 315.

Source. #6619-B, eff 10-29-97

Env-Wm 304.08 Public Hearing.

(a) A public hearing shall be required for all permit applications and applications for permit modification, except as provided by (b) below.

(b) Pursuant to RSA 149-M:9, a public hearing shall not be required, except as noted in (d) below, for applications to approve a facility or activity expected to have an insignificant effect on environmental quality, as specified in (c) below.

(c) Facilities and activities authorized by the following types of approvals shall be deemed to have an insignificant effect on environmental quality:

- (1) Permits-by-notification pursuant to Env-Wm 2107, Env-Wm 2207, Env-Wm 2307, Env-Wm 2407 and Env-Wm 2509;
- (2) Emergency permits;
- (3) Research and development project permits;
- (4) Standard permits for existing facilities operating in compliance with the solid waste rules under the provisions of a temporary permit;
- (5) Standard permits for limited public collection, storage and transfer facilities;
- (6) Type I-B, type II, type III, type IV and type V permit modifications pursuant to Env-Wm 315;
- (7) Construction approvals pursuant to Env-Wm 2800, including approvals to construct landfill capping systems; and
- (8) Operating approvals pursuant to Env-Wm 2800;

(d) Pursuant to RSA 149-M:11,IV(a), a public hearing shall be required for an application:

- (1) To establish a new facility accommodating greater than 30 tons of waste per day, on average; and
- (2) To increase the capacity of an existing facility from less than to greater than 30 tons per day, on average.

(e) The department shall provide notice of the public hearing to the applicant, the host municipality, host solid waste management district, other affected entities excluding abutters receiving notice pursuant to (i) below, and the public, as specified in (f) through (h) below.

(f) Notice to the public shall be by publication in a newspaper of general circulation in the host municipality and host solid waste management district.

(g) Notice to the applicant, host municipality, host solid waste management district and other affected entities excluding abutters receiving notice pursuant to (i) below, shall be provided in writing and sent by first class mail.

(h) The notice of public hearing shall:

- (1) Identify the:
 - a. Applicant by name and mailing address;
 - b. Type of application;
 - c. Nature of the proposal; and

- d. Facility name, location by street and municipality, type and, if applicable, permit number;
 - (2) State the date, time and location of the hearing;
 - (3) Identify the location(s) where a copy of the complete application is available for public review;
 - (4) State that testimony may be submitted in writing to the department at any time before the close of the hearing notice period in lieu of attending and/or providing oral testimony at the public hearing;
 - (5) Request disabled persons planning to attend the hearing and requiring special assistance under the provisions of the Americans with Disabilities Act to contact the department in advance of the hearing to identify the type of assistance required; and
 - (6) Provide the name, title, mailing address and telephone number of the department official or employee who may be contacted regarding the application and hearing, and to whom written public hearing testimony may be submitted.
- (i) Pursuant to RSA 149-M:9,VIII, the applicant shall provide a notice of public hearing, as specified in (h) above, to all abutters by certified mail, return receipt requested. If the applicant or the facility site owner owns any abutting parcel of land, the notice of hearing shall be sent to the owner(s) of the next parcel(s) not owned by the applicant or facility site owner.
- (j) The applicant shall make a copy of the complete application available at a locally accessible place for public review from the date hearing notice is first provided through the date the hearing record is closed by the department.
- (k) Upon instruction by the department, the applicant shall make arrangements for locating the public hearing as specified by (l) below.
- (l) The public hearing shall be held at a location that:
- (1) Is within the host municipality or, in the case of an unincorporated town or unorganized place, in the host county;
 - (2) Provides access for disabled persons in conformance with Title II of the Americans with Disabilities Act as provided in public law 101-336;
 - (3) Provides adequate seating and parking for the number of persons anticipated to attend; and
 - (4) Provides a public address system as appropriate for the size of the hearing room and the anticipated number of attendees.
- (m) Pursuant to Env-Wm 310, the applicant shall pay the cost, if any, for:
- (1) Hearing notice publication;
 - (2) Rental of the hearing room;
 - (3) Hiring security personnel for crowd control if, based on the nature of the application and indications of public interest, the department or the host municipality determines crowd control measures will be required to protect the public health and safety; and
 - (4) Hiring interpreters for disabled persons or providing other such services when required to comply with the Americans with Disabilities Act.
- (n) The department shall conduct the hearing in accordance with Env-C 203 and Env-C 205.

Source. #6619-B, eff 10-29-97; amd by #7225, eff 3-31-00

PART Env-Wm 305 APPLICATION DECISIONS

Env-Wm 305.01 Applicability. The rules in this part shall apply to all applications reviewed in accordance with Env-Wm 304.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 305.02 Decision on Application.

(a) Following completion of the review procedures in Env-Wm 304 and within either 120 days following the receipt date of the complete application or 30 days following a public hearing held pursuant to Env-Wm 304.08(d) and RSA 149-M:11,IV(a), whichever occurs latest, the department shall either issue or deny the requested approval, in writing.

(b) A decision for denial shall be made pursuant to the provisions of Env-Wm 305.03.

(c) A decision for issuance shall be made pursuant to:

- (1) Env-Wm 305.04;
- (2) Env-Wm 305.05, if for a permit; and
- (3) Env-Wm 305.06, if for a permit modification.

(d) The applicant and all persons and entities to whom the applicant was required to provide a copy of the application pursuant to Env-Wm 303 shall be notified of the decision in writing by the department.

(e) Pursuant to RSA 149-M:9,XII(b), the final decision on an application for a type IV permit modification to transfer a permit shall not be made until at least 30 days after the public hearing, if held.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97; amd by #7225, eff 3-31-00

Env-Wm 305.03 Denial of a Requested Approval.

(a) The written decision for denial shall:

- (1) Identify the applicant, type of application and all documents that constitute the complete application or, if the decision for denial is made without a complete application pursuant to Env-Wm 304.04(c), all documents submitted by the applicant that form the basis of the decision;
- (2) State the specific reason(s) for the denial based on (b) below;
- (3) Identify the applicable provisions for appeal pursuant to RSA 21-O:9,V;
- (4) Provide the name, title, mailing address and telephone number of the department official or employee who may be contacted regarding the decision; and
- (5) Be signed by the director or a person so authorized by the director.

(b) A requested approval shall be denied if one or more of the following conditions applies:

- (1) The proposed activity does not meet the applicable requirements of RSA 149-M and the solid waste rules;

(2) The application provides insufficient or ambiguous information that precludes a determination that the proposed approval will comply with RSA 149-M and the applicable requirements of the solid waste rules, and the deficiencies are so substantial as to not be remedied by subjecting the approval to compensating terms and conditions;

(3) The department determines that the applicant meets the criteria for denial pursuant to RSA 149-M:9,IX;

(4) The applicant has not demonstrated its legal right to occupy the subject property;

(5) As required by RSA 483:12-a, the department is notified by the rivers coordinator that a proposed activity violates a protection measure under RSA 483:9, RSA 483:9-a, or RSA 483:9-b;

(6) The application becomes a dormant application;

(7) The application is for a permit-by-notification or type III permit modification and the applicant is unable to provide compliance certification pursuant to Env-Wm 303.14; or

(8) The application meets any other provision for denial as specified in the solid waste rules for the particular type of application reviewed.

(c) An application for a permit-by-notification pursuant to Env-Wm 311 or a type III permit modification pursuant to Env-Wm 315 shall be denied based on (b)(2) above if the application is filed contrary to the requirements in Env-Wm 303 or is not complete upon initial filing.

(d) In conformance with (a) above, notice for denial pursuant to (c) above shall be made by sending to the applicant, host municipality and host solid waste district a copy of the notification form which:

(1) Bears the department's dated receipt stamp;

(2) Is clearly marked "incomplete/denied";

(3) Is marked to identify the deficiencies;

(4) Is imprinted with the information required by (a)(3) above;

(5) Is signed and dated by the director or person so authorized by the director; and

(6) Is stapled to a business card bearing the information required by (a)(4) above.

(e) Denial of a permit-by-notification or a type III permit modification due to improperly filing or completing the application upon initial filing shall not preclude the applicant from later obtaining an approval by properly submitting a complete notification.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97; amd by #6894-B, eff 12-1-98

Env-Wm 305.04 Issuance of Any Requested Approval.

(a) The written decision for any approval shall:

(1) Identify the person to whom the approval is granted;

(2) Identify the type of approval and authority for issuance;

(3) Identify all documents that constitute the complete application;

(4) Specify the terms and conditions under which the approved activity shall be authorized, including:

- a. The date the approval shall be effective;
- b. The expiration date, if any, and provisions for renewal as applicable; and
- c. The information specified in:
 1. Env-Wm 305.05, if a facility permit; and
 2. Env-Wm 305.06, if a facility permit modification.

(5) Be signed and dated by the director or a person so authorized by the director.

(b) An approval granted by the department shall not affect the applicant's obligation to obtain all requisite federal, state or local permits, licenses or approvals, or to comply with all other applicable federal, state, district or local permits, ordinances, laws or approvals or conditions pertaining to the approved activity.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 305.05 Issuance of Permits.

(a) A standard permit, emergency permit and research and development facility permit shall:

- (1) Be issued in conformance with Env-Wm 305.04;
- (2) Specify the functional classification of the facility pursuant to Env-Wm 302;
- (3) Specify the facility shall be constructed, operated and closed in accordance with RSA 149-M and the solid waste rules;
- (4) Identify all plans approved by the department as part of the permit and incorporate said plans by reference into the terms and conditions of the permit; and
- (5) Include terms and conditions, based on the information provided in the permit application and in conformance with the applicable facility requirements in Env-Wm 2100 through 2900 and Env-Wm 3100, for the following:
 - a. Facility location;
 - b. Facility design;
 - c. Facility construction;
 - d. Facility operation, including:
 1. Operating restrictions including:
 - i. Facility function;
 - ii. Capacity;
 - iii. Service type;
 - iv. Service area; and

- v. Authorized and prohibited waste types;
- 2. Public benefit requirements pursuant to RSA 149-M:11;
- 3. Maintenance and monitoring requirements; and
- 4. Reporting requirements;
- e. Financial assurance for guaranteeing the cost of facility closure; and
- f. Facility closure, including post-closure requirements.

(b) Except for a permit-by-notification, emergency permit not exempt pursuant to Env-Wm 313.02(b) or research and development permit not exempt pursuant to Env-Wm 312.02(b), a permit issued on the basis of a permit application containing preliminary as opposed to final plans for facility design and construction, operation, financial assurance or closure, shall include terms and conditions requiring the permittee to obtain final plan approval pursuant to the provisions of Env-Wm 315 for a type II permit modification.

(c) A standard permit issued for a facility that will be constructed in phases over time, such as a landfill, shall specify terms and conditions requiring the permittee to obtain final design plan approval for construction on a phase by phase basis pursuant to the provisions in Env-Wm 315 for a type II permit modification.

(d) Pursuant to the provisions of RSA 149-M:9,XI, a facility permit shall be continuous in duration, extending from the date of signature through any required post-closure period, except as provided by (e) below and Env-Wm 306.

(e) Pursuant to the provisions of RSA 149-M:11,XI, a permit shall expire as follows:

(1) A standard permit issued pursuant to Env-Wm 314 for a new facility shall expire 2 years from the date of issuance if the permittee has not obtained approval to construct the facility pursuant to the provisions of Env-Wm 2804, unless the permit specifically exempts the facility from the 2 year construction deadline on the basis of a demonstration of public benefit that accounted for a later construction date;

(2) A permit-by-notification issued pursuant to Env-Wm 311 shall expire:

a. For a facility with an active life longer than 90 days, one year from the date of issuance if facility construction has not commenced; and

b. For a facility with an active life of 90 days or less, 90 days from the date the facility will commence operations, as declared in the application.

(3) An emergency permit issued pursuant to Env-Wm 313 shall expire following completion of the emergency response actions and facility closure requirements identified in the permit; and

(4) A research and development facility permit shall expire following completion of the studies and facility closure requirements identified in the permit.

(f) A permit-by-notification pursuant to Env-Wm 311 shall be issued in conformance with Env-Wm 305.04 by:

(1) Having the notification form imprinted and prepared to include all of the information required by Env-Wm 305.04(a)(1) through (4);

(2) Marking the notification form "approved";

(3) Affixing the department's dated receipt stamp to the form; and

(4) Having the form signed and dated by the director or a person so authorized by the director.

(g) A form processed as specified in (f) above shall constitute the written permit for a permit-by-notification facility.

(h) Any proposed change to the location, design, operation or closure of a facility as permitted by the department shall require approval pursuant to Env-Wm 315 and Env-Wm 305.06, except as noted in (i) below.

(i) A permit-by-notification issued pursuant to Env-Wm 311 shall not be modified, except if the modification is a type III or type V modification pursuant to Env-Wm 315 or a permit transfer pursuant to Env-Wm 2902.06(d). Any other modification of a permit-by-notification facility shall be authorized only by issuance of a new permit-by-notification for the modified facility.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 305.06 Issuance of Permit Modifications.

(a) A facility permit modification granted pursuant to Env-Wm 315 shall:

(1) Be issued in conformance with Env-Wm 305.04;

(2) Identify the permit which is being modified, including the facility:

a. Name;

b. Location; and

c. Permit number;

(3) Stipulate how the permit is being modified, including citation of each condition of the permit that is modified;

(4) Identify all plans approved by the department as part of the modification and incorporate such plans by reference into the terms and conditions of the permit; and

(5) Be signed and dated by the director or a person so authorized by the director.

(b) In conformance with (a) above, a type III and type V permit modification granted pursuant to Env-Wm 315 shall be issued by:

(1) Having the form imprinted and prepared to include all of the information specified by Env-Wm 305.04;

(2) Marking the notification form "approved";

(3) Affixing the department's dated receipt stamp to the form; and

(4) Having the form signed and dated by the director or person so authorized by the director.

(c) A form, processed as specified in (b) above, shall constitute the approved permit modification for the permit-by-notification facility.

(d) Upon receipt of an approved permit modification, the permittee shall attach the approval to the permit and maintain a copy thereof as part of the facility operating records.

(e) In the case of a type V permit modification issued pursuant to Env-Wm 315 for the purpose of recording a name change, the approval shall expire unless the permittee:

(1) Publishes a notice of the name change in a newspaper of general circulation in the host municipality and host solid waste district within 10 days after the effective date of the modification; and

(2) Sends a copy of the published notice to the department within 10 days following publication.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

PART Env-Wm 306 REVOCATION AND SUSPENSION

Env-Wm 306.01 Purpose. The purpose of the rules in this part is to establish procedures by which the department shall revoke, suspend or modify a permit or other approval issued pursuant to RSA 149-M and the solid waste rules.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 306.02 Applicability. The rules in this part shall apply to actions by the department to revoke, suspend or modify a permit or other approval issued pursuant to RSA 149-M and the solid waste rules.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 306.03 Procedure.

(a) Revocation, suspension or modification of a permit by the department shall proceed in accordance with RSA 541-A:30 and this part.

(b) If, pursuant to investigation or inspection in accordance with Env-Wm 3700, the department determines there may be good cause for revocation, suspension or modification, as specified in Env-Wm 306.05, the permittee shall be so notified in writing by certified mail, return receipt requested, and provided an opportunity for an adjudicative hearing.

(c) Written notice provided pursuant to (b) above, shall:

(1) Identify:

- a. The facility by name, location and permit number;
- b. The action(s) the department proposes to take;
- c. The reason(s) for the proposed action(s);
- d. The department's authority for taking such action(s);
- e. The date, time and place for an adjudicative hearing; and
- f. The name, title, mailing address and telephone of the department official or employee who may be contacted regarding the notice;

(2) State that:

- a. The permittee may waive the right to an adjudicative hearing by so notifying the department in writing within 5 days after the notice receipt date;
 - b. In the event the permittee either waives the right to a hearing or fails to appear at the hearing, the proposed action shall become immediately effective; and
 - c. Written notice of the department's final action shall be provided by certified mail, return receipt requested;
- (3) Be dated and signed by the director or a person so authorized by the director; and
 - (4) Be sent by first class mail to the host municipality and host solid waste management district.
- (d) The adjudicative hearing shall proceed in accordance with Env-C 202.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 306.04 Decision.

- (a) A permit shall be revoked if the department determines, following the procedures in Env-Wm 306.03, that:
- (1) Good cause as provided in Env-Wm 306.05 exists; and
 - (2) There are no circumstances by which the permittee can correct or eliminate the underlying problem.
- (b) A permit shall be suspended if the department determines, following the procedures in Env-Wm 306.03, that:
- (1) Good cause as provided in Env-Wm 306.05 exists; and
 - (2) Given time to do so, the permittee can correct the underlying problem and thereafter resume facility operations in full compliance with the solid waste rules.
- (c) A permit shall be modified by the department if the department determines, following the procedures in Env-Wm 306.03, that:
- (1) Good cause as provided in Env-Wm 306.05 exists; and
 - (2) The underlying problem can be corrected or eliminated by changing a condition(s) of the permit.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 306.05 Good Cause. The following shall provide good cause to revoke, suspend or modify a permit:

- (a) A criteria for revocation or suspension as provided in RSA 149-M:12 exists;
- (b) Issuance of the permit was based on false or misleading information; and/or
- (c) The permittee or the facility meets any other criteria for permit denial as specified in Env-Wm 305.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

PART Env-Wm 307 STATUS OF EXISTING PERMITS

Env-Wm 307.01 Purpose.

(a) The purpose of the rules in this part is to:

(1) Classify existing permits according to the system of permits specified in Env-Wm 302 so as to clearly identify how the existing permits will be administered by the department after October 29, 1997; and

(2) Specify procedures by which the department will reissue an existing permit, if requested by the permittee, for the sole purpose of rewording the terms and conditions to clarify but not modify facility requirements under RSA 149-M, the solid waste rules and the permit.

(b) There is no intent by the rules in this part to modify the conditions of any existing permit.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; amd by #5886-A, eff 8-26-94; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 307.02 Applicability. The rules in this part shall apply to all permits granted under the authority of RSA 149-M prior to October 29, 1997.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; amd by #5296, eff 12-24-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 307.03 Status of Permits Issued Prior to July 1, 1991.

(a) A permit issued pursuant to RSA 149-M prior to July 1, 1991 shall be titled and administratively classified as a "standard permit" under the solid waste rules, except as provided in Env-Wm 307.10.

(b) The terms and conditions of the permit shall remain unchanged.

(c) If the permit bears no permit number, the department shall assign a number for data management and reporting purposes.

(d) Each permittee affected by (a) through (c) above shall be sent written notice thereof by the department.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; amd by #5296, eff 12-24-91; rpld by #5886-A, eff 8-26-94; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 307.04 Status of Permits Issued Between June 30, 1991 and October 29, 1997.

(a) Each of the following types of permits, issued pursuant to RSA 149-M between June 30, 1991 and October 29, 1997, shall be titled and administratively classified as a "standard permit" under the solid waste rules, except as provided in Env-Wm 307.10:

(1) "Standard permit";

(2) "Limited permit for existing facility"; and

(3) "Limited permit for new facility";

(b) An "emergency permit," issued pursuant to RSA 149-M between June 30, 1991 and October 29, 1997 shall remain titled and administratively classified as an "emergency permit" under the solid waste rules, except as provided in Env-Wm 307.10.

(c) A "research and development permit," issued pursuant to RSA 149-M between June 30, 1991 and October 29, 1997, shall remain titled and administratively classified as a "research and development permit," except as provided in Env-Wm 307.10.

(d) For each permit identified in (a) through (c) above, the terms and conditions of the permit shall remain unchanged.

(e) If a permit identified in (a) through (c) above bears no permit number, the department shall assign a number to the permit for the data management and reporting purposes.

(f) Each permittee affected by (a) through (e) above shall be sent written notice thereof by the department.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; amd by #5886-A, eff 8-26-94; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 307.05 Status of Temporary Permits.

(a) A "temporary permit" issued pursuant to RSA 149-M between June 30, 1991 and October 29, 1997, shall remain titled and administratively classified as a "temporary permit" under the solid waste rules, except as provided in Env-Wm 307.10.

(b) Temporary permits shall be administered as specified in Env-Wm 307.06 through Env-Wm 307.09.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; amd by #5296, eff 12-24-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 307.06 Administration of Temporary Permits.

(a) Temporary permits shall be subject to call by the department pursuant to the provisions of Env-Wm 307.07.

(b) A facility which ceased operations prior to issuance of the temporary permit or which ceases to operate after issuance of the temporary permit shall not resume operations under the provisions of the temporary permit, except pursuant to a notice of temporary cessation in Env-Wm 2806.05.

(c) Until required to close pursuant to Env-Wm 307.08 or Env-Wm 307.09, an operating facility with a temporary permit may continue operating under its temporary permit provided that the facility:

(1) Complies with the terms and conditions of the temporary permit, including the provisions of Env-Wm 2700, Env-Wm 2805 and Env-Wm 2105, Env-Wm 2205, Env-Wm 2305, Env-Wm 2405 or Env-Wm 2506 as applicable based on the functional classification of the facility, except:

a. There shall be no requirement to provide a written operating plan; and

b. The operating requirements applicable to liners and leachate collection and removal systems shall not apply to unlined landfills; and

(2) Submits, in accordance with the requirements of Env-Wm 303 and by January 1, 1999, a status report on facility operations which:

a. Shall identify the facility's remaining capacity and life expectancy; and

- b. Shall certify compliance with the requirements of (c)(1) above, specifically including compliance with the groundwater management requirements in RSA 485.

Source. #6619-B, eff 10-29-97

Env-Wm 307.07 Call of Temporary Permits.

- (a) Temporary permits for the following facilities shall be called on October 29, 1997:
 - (1) Inactive facilities; and
 - (2) Active facilities unable to certify compliance pursuant to Env-Wm 307.06.
- (b) The department shall determine the priority for call of all other temporary permits, as follows:
 - (1) Priority shall be assigned to landfills consistent with the criteria provided in RSA 149-M:49; and
 - (2) Priority shall be assigned to non-landfill facilities based on the hierarchy established in RSA 149-M:3, with highest priority given to facilities lowest in the hierarchy.
- (c) The department shall call temporary permits in order of the facility's assigned priority by notifying the permittee in writing.
- (d) Written notice provided pursuant to (c) above shall instruct the permittee to comply with Env-Wm 307.08 or Env-Wm 307.09, as applicable.

Source. #6619-B, eff 10-29-97

Env-Wm 307.08 Landfills with Temporary Permits.

- (a) A landfill holding a temporary permit shall close in accordance with Env-Wm 2706, Env-Wm 2806 and Env-Wm 2507.
- (b) Following call of a temporary landfill permit, the permittee shall:
 - (1) Within 60 days of the date of call, submit to the department for approval a schedule for developing and implementing a facility closure plan that meets the requirements of (a) above;
 - (2) By the date specified in the schedule approved by the department pursuant to (1) above, submit for department approval a facility closure plan as specified in Env-Wm 2806; and
 - (3) Implement facility closure in accordance with the closure plan and schedule approved by the department pursuant to Env-Wm 2806.
- (c) A temporary landfill permit shall remain in effect for the duration of the required closure and post-closure period.

Source. #6619-B, eff 10-29-97

Env-Wm 307.09 Non-Landfill Facilities with Temporary Permits.

- (a) Following call of a temporary permit for an inactive non-landfill facility, pursuant to Env-Wm 307.07(a)(1), the permittee shall either:
 - (1) Implement facility closure in accordance with the requirements of Env-Wm 2806; or
 - (2) Submit documentation demonstrating that the facility is already closed in accordance with the requirements of Env-Wm 2806.

(b) Following call of a temporary permit for an active non-landfill facility, pursuant to Env-Wm 307.07(b)(2) or (c), the permittee shall either:

(1) Within one year of the date of call, file an application for a standard permit pursuant to Env-Wm 314 or a permit-by-notification pursuant to Env-Wm 311; or

(2) Implement facility closure in accordance with the requirements of Env-Wm 2806.

(c) If, pursuant to Env-Wm 307.07(a)(2), the permit is called due to inability to certify compliance pursuant to Env-Wm 307.06, the facility shall either:

(1) Cease operations and implement facility closure in accordance with the requirements of Env-Wm 2806; or

(2) Obtain a waiver pursuant to Env-Wm 202 to continue operating subject to implementing a plan to achieve full compliance within one year of the date of permit call and pending final action on a permit application filed pursuant to (b)(1) above.

(d) An active non-landfill facility shall be required to implement closure in accordance with the requirements of Env-Wm 2806 if:

(1) It fails to complete in a timely fashion any permit application filed pursuant to (b)(1) above;

(2) The department denies the permit application; or

(3) A provision for closure pursuant to Env-Wm 2706 exists.

(e) A temporary permit for a non-landfill facility shall be retired:

(1) Upon issuance of a standard permit or permit-by-notification for the same facility; or

(2) Upon written notice thereof to the permittee by the department, following full closure of the facility and the end of any required post-closure monitoring and maintenance period.

Source. #6619-B, eff 10-29-97

Env-Wm 307.10 Exceptions to Designated Permit Titles and Classifications.

(a) Any person holding a permit identified in Env-Wm 307.02 through Env-Wm 307.05 and believing that the activity(s) authorized in the permit are the same as an activity(s) now exempt from a permit pursuant to Env-Wm 101.03, Env-Wm 302.03, Env-Wm 2108, Env-Wm 2208, Env-Wm 2308, Env-Wm 2408, Env-Wm 2510, or Env-Wm 3404, may request the department to review the terms and conditions of the permit to determine whether the permit shall be retired in favor of the comparable permit exemption.

(b) Following receipt of a request pursuant to (a) above, the department shall review the terms and conditions of the permit to determine whether the facility meets the requirements of a permit-exempt facility.

(c) If the department determines that the facility meets the requirements of a permit-exempt facility, the original permit shall be retired.

(d) The permittee shall be notified in writing of the department's decision.

Source. #6619-B, eff 10-29-97

Env-Wm 307.11 Provisions for Reissuing an Existing Permit.

(a) A permittee may request the department to reissue an existing permit for the sole purpose of rewording the terms and conditions to clarify but not modify requirements applicable to the facility under RSA 149-M, the solid waste rules and the permit.

(b) A request pursuant to (a) above shall be made in writing, to include:

- (1) Facility identification, including name, location by street and municipality, and permit number;
- (2) Permittee identification, including name, mailing address and telephone number;
- (3) A statement requesting the department to initiate action to reissue the permit pursuant to the rules in this section;
- (4) Date of the request; and
- (5) Signature of the permittee.

(c) Following receipt of a request as specified by (b) above, the department shall review the terms and conditions of the permit to determine whether reissuance of the permit will have an administrative benefit to both the department and the permittee, based on the criteria provided by (d) below.

(d) There shall be an administrative benefit to reissuing a permit if:

- (1) The permit was originally issued by the department as the division of public health services;
or
- (2) The terms and conditions of the permit include references to rules, statutes or regulations either no longer in effect or amended to such an extent as to make:
 - a. The legal meaning of the terms and conditions unclear without knowing the history of the cited rules, statutes or regulations; and/or
 - b. A plain reading of the terms and conditions to be an incorrect legal meaning.

(e) If there is an administrative benefit to reissuing the permit, the department shall prepare and send a preliminary draft of the rewritten permit to the permittee for review and comment.

(f) Following receipt of comments by the permittee on the preliminary draft, the department shall prepare and send a proposed final draft of the rewritten permit to the permittee for review and response pursuant to (g) below.

(g) Following receipt of a proposed final draft of the rewritten permit, the permittee shall notify the department as to which of the following actions shall be taken:

- (1) Because the permittee agrees that the proposed final draft permit meets the objective for reissuance, namely clarification, and does not constitute a modification of the permit as shall otherwise proceed in accordance with Env-Wm 306, the department shall proceed to reissue the permit in the form presented by the proposed final draft; or
- (2) Because the permittee disagrees that the proposed final draft permit meets the objective for reissuance, namely clarification, and/or believes the proposed final draft permit constitutes a modification of the permit under RSA 541-A, the permittee shall:
 - a. Withdraw the request for reissuance; or
 - b. Agree to proceed with reissuance in accordance with the modification procedures specified in Env-Wm 306, including the opportunity for an adjudicative hearing pursuant to RSA 541-A:30.

(h) The department shall proceed in accordance with the permittee's response provided pursuant to (g) above.

Source. #6619-B, eff 10-29-97

PART Env-Wm 308 INTERIM STATUS

Env-Wm 308.01 Purpose. The purpose of the rules of this part is to:

(a) Identify facilities that qualify for interim status and are therefore temporarily exempt from holding a permit, pursuant to Env-Wm 302.03(b)(8); and

(b) Identify interim status facility operating and closure requirements.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 308.02 Applicability. The rules in this part shall apply to all persons owning a facility, existing as of October 29, 1997, at which soil and/or absorbent media contaminated with virgin petroleum product(s), received from off-site locations, is being managed.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 308.03 Registration and Determination of Interim Status.

(a) The owner of a facility identified in Env-Wm 308.02 shall register in accordance with Env-Wm 309 within 60 days of October 29, 1997.

(b) Following receipt of registration, the department shall notify the facility owner in writing whether interim status shall be granted or denied.

(c) Interim status shall be granted if the facility is a facility identified in Env-Wm 308.02 and a complete registration is filed.

(d) If interim status shall be denied, the department shall so state the reason(s) in the written notice.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 308.04 Interim Status Operating Period.

(a) Pursuant to Env-Wm 302.03(b)(8), interim status shall allow a facility to temporarily operate without a permit, subject to meeting the requirements of Env-Wm 308.05.

(b) Interim status shall expire as specified in Env-Wm 308.07.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 308.05 Interim Status Operating Requirements. A facility shall only operate under interim status if:

(a) Subject to any waivers granted pursuant to Env-Wm 308.06, operations shall comply with:

(1) Env-Wm 2700;

(2) Env-Wm 2800 subject to the following exceptions:

- a. The requirements for a written operating plan shall not apply during interim status operations; and
- b. The requirement for a written closure plan shall not apply during interim status until closure is triggered pursuant to Env-Wm 308.06;

(3) Env-Wm 2100 through Env-Wm 2500, as applicable based on the functional classification of the facility; and

(4) Env-Wm 2603

(b) The nature, scope and capacity of facility operations shall not expand;

(c) A condition for expiration specified in Env-Wm 308.07 shall not exist; and

(d) Within 180 days of being granted interim status, the owner of the facility shall file the following information in accordance with Env-Wm 303:

- (1) Certification of compliance with (a) above or, if unable to certify compliance, a compliance report and application(s) for waiver pursuant to Env-Wm 308.06; and
- (2) If the facility will continue to operate after interim status expires, an application to obtain a permit for continued operation pursuant to Env-Wm 314 or Env-Wm 315; or
- (3) If the facility will not continue to operate after interim status expires, a closure plan and schedule pursuant to Env-Wm 2806.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 308.06 Compliance Report and Temporary Waivers.

(a) The compliance report required by Env-Wm 308.05(d)(1) shall identify all noncomplying aspects of facility operations and provide either:

- (1) A plan and schedule for achieving compliance before issuance of a permit based on the application filed pursuant to Env-Wm 308.05(d)(2), if the facility does not intend to close when interim status expires; or
- (2) A plan and schedule for achieving compliance through implementation of a closure plan pursuant to Env-Wm 2806, including post-closure remedial activities if applicable based on site conditions, if the facility shall not continue to operate beyond the expiration of interim status.

(b) For any non-complying aspect of facility operations, a waiver pursuant to Env-Wm 202 shall be required for operations under interim status.

(c) Any waiver issued shall be subject to implementing a plan to achieve full compliance before the expiration of interim status.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 308.07 Expiration of Interim Status. Interim status shall expire if:

- (a) The facility fails to comply with the interim status operating requirements in Env-Wm 308.05;
- (b) The department issues or denies a permit based on the application filed pursuant to Env-Wm 308.05(d)(2); or
- (c) The facility closes in accordance with a plan and schedule for closure submitted pursuant to the provisions of Env-Wm 308.05(d)(3) and approved by the department pursuant to Env-Wm 2806, including completion of post-closure remedial activities if applicable based on site conditions.

Source. #6619-B, eff 10-29-97

Env-Wm 308.08 Interim Status Facility Closure. Any facility subject to this part shall be required to implement full closure in accordance with Env-Wm 2806 if:

- (a) The facility fails to submit registration pursuant to Env-Wm 309;
- (b) Interim status expires pursuant to Env-Wm 308.07; or
- (c) A provision for closure in Env-Wm 2706 applies.

Source. #6619-B, eff 10-29-97

PART Env-Wm 309 REGISTRATIONS

Env-Wm 309.01 Purpose.

(a) The purpose of registration of landfills that stopped receiving waste before July 10, 1981 is to provide the department with:

- (1) Documentation demonstrating that the criteria for exemption in Env-Wm 101.04 applies; and
- (2) Information to identify whether an exempt landfill poses a potential threat to human health and the environment which requires action under the provisions of other state or federal regulations.

(b) The purpose of registration of interim status facilities is to notify the department of facility existence and to initiate the permitting or closure process pursuant to Env-Wm 308.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 309.02 Applicability. The rules in this part shall apply to:

- (a) Persons owning landfills, including asbestos waste sites, which stopped receiving waste before July 10, 1981 and claiming exemption from the solid waste rules pursuant to Env-Wm 101.04; and
- (b) Persons owning facilities requiring interim status pursuant to Env-Wm 308.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 309.03 Registration Requirement.

- (a) Persons identified in Env-Wm 309.02 shall register in accordance with (b) below.
- (b) The following registration information shall be filed with the department in accordance with Env-Wm 303:

- (1) Facility identification:
- (2) Identification of parties;
- (3) If a written permit has been issued by the department for any other activity at the facility or site, the following information for each permit so issued:
 - a. The permittee's name, mailing address and telephone number;
 - b. The permit number;
 - c. The type of permit or description of the activity(s) authorized by the permit; and
 - d. The date of issuance;
- (4) The operating status of the facility, including:
 - a. Whether active or inactive;
 - b. The date the facility commenced operations; and
 - c. The remaining facility life expectancy; or
 - d. The date on which the facility ceased active operation;
- (5) The type(s) of waste management activity(s) conducted at the facility, including:
 - a. Collection;
 - b. Storage;
 - c. Transfer;
 - d. Processing;
 - e. Treatment; and
 - f. Landfilling;
- (6) Type of service provided by the facility, as defined in Env-Wm 102, namely "limited" or "unlimited";
- (7) The type(s) of wastes handled at the facility;
- (8) Identification of the service area, including a list of all New Hampshire communities and areas outside the state served by facility;
- (9) For interim status facilities, the capacity of the facility as follows:
 - a. Design capacity of processing and treatment equipment;
 - b. Quantity of waste managed at the facility, on average annually, since first commencing operations; and
 - c. Storage capacity;
- (10) For inactive landfills, an estimated volume of waste at the facility;

(11) For inactive landfills, a description of the type and depth of cover material placed over landfilled waste;

(12) If the facility is active, the days and hours of operation; and

(13) A report of any environmental assessment done of the facility.

(c) Notification provided the department in accordance with Env-Wm 315 of rules adopted under RSA 149-M effective July 1, 1991 shall constitute registration under this part.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 309.04 Registration Processing.

(a) Following receipt of registration from the owner of a landfill that stopped receiving waste before July 10, 1981, the department shall review the information submitted and, if it determines that the landfill is a known or suspected source of groundwater or surface water contamination, the department shall notify the facility owner of the requirements of RSA 485.

(b) Following receipt of registration from an asbestos waste site that stopped receiving waste before July 10, 1981, the department shall notify the site owner of requirements for site closure and post-closure maintenance in compliance with RSA 147-A, RSA 141-E, 40 CFR Part 61, 29 CFR Part 1910, and 29 CFR Part 1926.

(c) Following receipt of registration from a facility seeking interim status, the department shall determine whether the facility qualifies for interim status and so notify the facility owner in accordance with Env-Wm 308.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

PART Env-Wm 310 FACILITY APPLICATION FEES

Statutory Authority: RSA 149-M:7

Env-Wm 310.01 Applicability. The rules in this part shall apply to persons filing applications for permits and permit modifications.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 310.02 Standard Permit Application Fees for Facilities Without a Temporary Permit.

(a) The permit application fee (PAF) for a standard permit for a facility without a temporary permit shall be:

(1) Zero if the facility is scheduled to close; or

(2) The sum of the minimum base fee (MBF) as specified in (b) below plus the product of a capacity factor (CF) as specified in (c) below multiplied by a lifespan index (LI) as specified in (d) below, plus the cost of completing a background investigation (BI) pursuant to Env-Wm 316, plus the cost of public notice and hearing (PNH) pursuant to Env-Wm 304, as illustrated in the following equation:

$$\text{PAF} = \text{MBF} + (\text{CF})(\text{LI}) + \text{BIF} + \text{PNH}$$

(b) The MBF shall be the largest fee specified in Table 310-I which corresponds to any function encompassed at the facility:

TABLE 310-I
MBF for Single Function Facilities

Facility Type	Minimum Base Fee (MBF)
Landfill, lined	\$15,000
Landfill, unlined	\$ 5,000
Processing/Treatment	\$ 2,000
Collection/Storage/Transfer	\$ 2,000

(c) The CF shall be determined from Table 310-II based on the design capacity of the facility in tons per day (TPD), as demonstrated in the application:

TABLE 310-II
CF Based on Facility Capacity

Facility Capacity (TPD)	Capacity Factor
601 or more	\$20,000
301 to 600	\$10,000
121 to 300	\$ 5,000
31 to 120	\$ 2,000
30 or fewer	\$ 1,000

(d) The LI shall be determined from Table 310-III based on the designed active life expectancy of the facility, as demonstrated in the permit application:

TABLE 310-III
LI Based on Facility Life Expectancy

Facility Life Expectancy	Lifespan Index
more than 10 years	1.0
more than 5, to 10 years	0.8
more than 1, to 5 years	0.4
1 year or less	0.1

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97; amd by #6894-B, eff 12-1-98

Env-Wm 310.03 Standard Permit Application Fees for Temporary Permit Facilities. The fee for filing a standard permit application for a temporary permit facility shall be \$500.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 310.04 Permit-by-Notification Fees. There shall be no fee for filing an application for a permit-by-notification.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97; ss by #7225, eff 3-31-00

Env-Wm 310.05 Research and Development Facility Permit Fee. The fee for a research and development facility permit application shall be calculated in accordance with the equation given in Env-Wm 310.02 using the following substitute values:

- (a) The MBF shall equal \$1000; and
- (b) The CF shall be determined from Table 310-II based on the total quantity of waste the project involves instead of the daily capacity of the facility.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 310.06 Emergency Permit Application Fees. There shall be no permit application fee for an emergency permit.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 310.07 Type I Permit Modification Fees.

(a) The fee for filing an application for a type I-A permit modification as specified in Env-Wm 315.02 shall be the greater of the following:

- (1) \$1500; or
- (2) If the modification will increase the capacity of the facility, the PAF calculated in accordance with Env-Wm 310.02 using the CF in Table 310-II that corresponds to the net increase in permitted facility capacity and the LI in Table 310-III that corresponds to the remaining life of the facility if modified as proposed.

(b) The fee for filing an application for a type I-B permit modification as specified in Env-Wm 315.02 shall be \$100.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 310.08 Type II Permit Modification Fee. There shall be no fee for filing an application for a type II permit modification as specified in Env-Wm 315.02, except as follows:

(a) If the application involves the review of final design plans and specifications for construction of new landfill area other than the initial landfill phase, the fee shall equal the product of the applicable MBF in Table 310-I and the LI in Table 310-III that corresponds to the life expectancy of the area being constructed; and

(b) If the application involves the review of final design plans and specifications for construction of a lined landfill capping system or any portion thereof, the fee shall equal the product of the applicable MBF in Table 310-I and the ratio of the cap area to the total permitted footprint, measured in square feet in plan view.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 310.09 Type III Permit Modification Fee. There shall be no fee for filing an application for a type III modification.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 310.10 Type IV Permit Modification Fee. The fee for filing an application for a type IV modification shall equal \$1000 plus the cost of completing a background investigation (BIF) pursuant to Env-Wm 316 plus the cost of public notice and hearing (PNH) pursuant to Env-Wm 304.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 310.11 Type V Permit Modification Fees. There shall be no fee for a type V permit modification.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 310.12 Payment of Permit Application Fees.

(a) Fees shall be paid at the time of filing the application, except for the BIF and PNH portion of the fee which shall be paid upon presentation of an invoice for the actual costs.

(b) Fees shall be non-refundable.

(c) Fees, if paid by check or money order, shall be made payable to "Treasurer, State of NH.@

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

PART Env-Wm 311 PERMIT-BY-NOTIFICATION REQUIREMENTS

Env-Wm 311.01 Purpose and Applicability.

(a) The rules in this part specify provisions for obtaining a permit-by-notification.

(b) A permit-by-notification shall apply to facilities identified in Env-Wm 2107, Env-Wm 2207, Env-Wm 2307, Env-Wm 2407 and Env-Wm 2509.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97; ss by #6894-B, eff 12-1-98

Env-Wm 311.02 Requirements and Limitations.

(a) A permit-by-notification shall be obtained by filing notification in accordance with this part. The notification shall constitute a permit application for the facility.

(b) A permit-by-notification shall be issued for facilities meeting the following requirements, as certified by the applicant in the application:

- (1) Env-Wm 2900;
- (2) Env-Wm 2700;
- (3) Env-Wm 2800, for facilities having an active life longer than 90 days;
- (4) Env-Wm 2107, Env-Wm 2207, Env-Wm 2307, Env-Wm 2407 or Env-Wm 2509 depending on the type of facility; and
- (5) Env-Wm 2600, depending on the type of waste managed.

(c) A permit-by-notification facility shall not be transferred to a new owner, except for landfill transfers occurring automatically pursuant to Env-Wm 2902.06(d). In all other cases, a transferred permit-by-notification facility shall, for administrative purposes, be deemed a new facility and the new owner shall obtain a permit as though the facility were new, if operations continue after the property transfers.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 311.03 Application Content and Format. The applicant for a permit-by-notification shall submit the following information in the permit application:

- (a) Identification of parties;
- (b) Facility identification;
- (c) Facility type, as specified in Env-Wm 2107, Env-Wm 2207, Env-Wm 2307, Env-Wm 2407 and Env-Wm 2509;
- (d) Dates facility construction and operation are scheduled to commence;
- (e) Active life expectancy of the facility;
- (f) A facility site plan, drafted to scale and referenced to a known fixed point, showing:
 - (1) The location of the facility and the parcel of land upon which the facility is or will be located, including:
 - a. Property boundaries;
 - b. Access points;
 - c. Rights-of-way and/or easements; and
 - d. Areas or features protected or restricted by the applicable siting requirements in Env-Wm 2700 through Env-Wm 2900; and
 - (2) All of the following for a facility involving either new construction, or management of waste outside a building, or management of waste inside an existing building where there is the potential for discharge to the outside environment, as by floor drains or the like:
 - a. Above ground structures and utilities;
 - b. Below ground structures and utilities, including:

1. Underground storage tanks;
 2. Wells and waterlines;
 3. Septic systems and sewer lines; and
 4. Power, communication, and fuel lines;
- c. Surface waters; and
- d. Wetlands.

(3) Show the proposed facility, including:

- a. Waste handling areas, including areas and devices designated for receipt of waste, inspection of waste, processing or treatment of waste, and hot load isolation areas, as applicable;
- b. Waste storage areas, including the designated footprint for any stockpiles, areas and devices designated for storage of unprocessed waste, processed waste, processed recyclable materials, waste-derived products, bypass waste and residual waste as applicable; and
- c. If for a landfill, the vertical and lateral limits of the proposed waste disposal area and a detail of the cap profile; and

(4) Showing compliance with all required setback distances, by a dimensioned line drawn from the facility to each site feature which is protected by a specified setback requirement in Env-Wm 2700 through Env-Wm 2900, as applicable; and

(g) If the facility is located on property subject to enforcement action or within a groundwater management zone, the information required to show compliance with Env-Wm 2903.01(c) and (d).

(h) Certification, in addition to that required by Env-Wm 303.04, signed by the applicant attesting to the following:

(1) That the applicant has read and understands, and shall comply with all applicable requirements for the siting, design, construction, operation and closure of the facility as identified in Env-Wm 311.02;

(2) For a facility with an active life longer than 90 days, that:

- a. An operating plan and closure plan, meeting the content and format requirements specified in Env-Wm 2805.11 and Env-Wm 2806.04 respectively, have been prepared and shall be available and maintained as specified by Env-Wm 2902.02(a)(2) and (3); and
- b. The facility shall operate and close in conformance therewith;

(3) That the applicant has filed a copy of the application with the host municipality and host solid waste management district as required pursuant to Env-Wm 303; and

(4) That the applicant and all persons identified in Env-Wm 303.14(a) meet the compliance criteria specified in with Env-Wm 303.14(b).

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97; amd by #6894-B, eff 12-1-98

Env-Wm 311.04 Application Filing. The applicant shall file an application for a permit-by-notification in accordance with Env-Wm 303, as follows:

(a) All information required by Env-Wm 311.03 shall be compiled into one comprehensive submittal; and

(b) The applicant shall sign and file 4 copies of the application with the department, including the following:

(1) The fee specified in Env-Wm 310; and

(2) Three legal sized postage paid envelopes, bearing no return address and addressed in capital letters to the:

a. Applicant;

b. Host municipality; and

c. Host solid waste management district.

(c) The applicant shall concurrently file a copy of the application with the host municipality and host solid waste management district.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 311.05 Application Review and Decision. The application shall be processed in accordance with Env-Wm 304 and Env-Wm 305.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

PART Env-Wm 312 RESEARCH AND DEVELOPMENT PROJECTS PERMITTING PROVISIONS

Env-Wm 312.01 Purpose and Applicability.

(a) The rules in this part specify the provisions for obtaining a research and development facility permit.

(b) A research and development facility permit shall apply to research and development projects, as defined in Env-Wm 102, except no permit shall be required for research and development facilities identified in Env-Wm 302.03(b)(7).

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 312.02 Applicable Requirements and Limitations.

(a) A research and development facility permit shall be issued for research and development projects meeting the following requirements:

(1) Funding for the project shall be by public or private research grant monies distributed after submission of a written proposal for the scope of the project;

(2) A government agency or research institution, such as a public or private university, shall conduct or supervise the project; and

(3) Subject to (b) below, the project shall comply with:

- a. Env-Wm 2700;
- b. Env-Wm 2800, as applicable based on active life expectancy;
- c. Env-Wm 2100 through Env-Wm 2500 based on the functional classification of project activity(s);
- d. Env-Wm 2600 depending on the type(s) of waste involved by the project; and
- e. Env-Wm 3100.

(b) Compliance with (a)(3)b. through (a)(3) d. above shall not be required if the applicant demonstrates in the permit application that compliance with the requirement shall defeat the purpose of the project and that exemption from the requirement shall not cause a violation of the universal facility requirements in Env-Wm 2700.

(c) A research and development facility permit shall be subject to the provisions of Env-Wm 315 for modification, including renewal and transfer.

(d) A research and development facility permit shall be issued for a limited time period not to exceed the time period required to complete the studies and implement facility closure, based on a schedule provided in the permit application.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 312.03 Research and Development Permit Application Content and Format. The applicant shall provide the following information in the permit application, compiled in the order shown:

- (a) Identification of parties;
- (b) If the project will occur at a facility which holds a permit issued by the department, identification of the facility by name, location including street and municipality, and permit number;
- (c) If the project will occur at a location other than an already permitted facility, identification of the unpermitted location including the street address and municipality;
- (d) The name(s) and address(es) of the person(s) providing funding for the project in accordance with Env-Wm 312.02(a);
- (e) Identification of:
 - (1) The government agency or research institution, such as a public or private university, that will conduct or supervise the project pursuant to Env-Wm 312.02(a); and
 - (2) The name(s), address(es) and qualifications of the investigator(s) who will be undertaking the project, including designation of the lead investigator who will have overall primary responsibility for the project;
- (f) A proposal for the scope of the project, including:
 - (1) The type(s) and quantity of wastes to be studied;
 - (2) The process to be studied;
 - (3) If the project relates to activities at a permitted facility, a description of how the study so relates;

(4) The anticipated results of the study; and

(5) The length of time requested for the study;

(g) Copies of all english-language articles or reports published in scientific or technical journals which document or otherwise discuss studies of the process or methods proposed to be studied, and copies of all foreign-language articles or reports, translated into english, which have been published in scientific or technical journals which reflect negatively on the process or methods proposed to be studied;

(h) Pursuant to the requirements of Env-Wm 2706:

(1) A description of how and when the wastes used in the study will be ultimately disposed;

(2) A description of how any equipment or property used in the study will be closed; and

(3) The schedule for closure; and

(i) A certification signed by the lead investigator that the project shall not contravene the applicable requirements for permitting research and development projects, as specified in Env-Wm 312.02; and

(j) Completed personal and business disclosure forms pursuant to Env-Wm 316, for the applicant, lead investigator, and facility operator, if unable to provide compliance certification pursuant to Env-Wm 303.14.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97; amd by #6894-B, eff 12-1-98

Env-Wm 312.04 Research and Development Permit Application Filing. Applications for a research and development facility permit shall be signed and filed by the applicant in accordance with Env-Wm 303, with the fee specified in Env-Wm 310.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 312.05 Research and Development Permit Application Review and Decision.

(a) Applications for a research and development facility permit shall be processed by the department pursuant to the provisions of Env-Wm 304 and Env-Wm 305.

(b) As a condition of any permit issued, the permittee shall provide the following information:

(1) By March 31, an annual report prepared by the lead investigator which summarizes the work completed for the previous calendar year and provides a summary of all data generated;

(2) Within 3 months following the termination of the project, a project summary report prepared by the lead investigator including a summary of the project, a summary of all data generated, and a discussion of the results of the study;

(3) If the project will be the subject of an article for publication, a copy of the article or a draft of the article; and

(4) Copies of all data generated when required to support any project finding which will be used to obtain another permit, permit exemption, permit modification or waiver to any solid waste or hazardous waste rule.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

PART Env-Wm 313 EMERGENCY FACILITY PERMIT PROVISIONS

Env-Wm 313.01 Purpose and Applicability.

(a) The rules in this part shall specify requirements for obtaining an emergency facility permit.

(b) An emergency facility permit shall apply to facilities which operate for a limited period of time in response to any emergency for which no other readily available response exists and for which a delayed response to obtain another type of permit will result in an unnecessary risk to public health, safety or the environment.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; amd by #6372, eff 11-16-96; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 313.02 Applicable Requirements and Limitations.

(a) An emergency facility permit shall be issued for facilities identified in Env-Wm 313.01(b) meeting the following requirements:

- (1) Env-Wm 2700;
- (2) Env-Wm 2800, as applicable based on active life expectancy;
- (3) Env-Wm 2100 through Env-Wm 2500, as applicable based on the functional classification of the facility; and
- (4) Env-Wm 2600, as applicable based on the type of waste the facility manages.

(b) The requirements in (a)(2) and (a)(4) above shall not apply if the department determines, based on the nature of the emergency and the information in the permit application, that compliance with the requirement will prohibit effective emergency response.

(c) An emergency permit shall be subject to the provisions of Env-Wm 315 for modification, including permit transfer and renewal.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; amd by #6372, eff 11-16-96; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 313.03 Pre-application Contact.

(a) Prior to filing an application for emergency permit, the applicant, or affiliated person having first hand knowledge of the situation, shall contact the department by telephone or in person to report that an emergency condition exists.

(b) The applicant or affiliated person having first hand knowledge of the situation shall identify:

- (1) The nature of the emergency;
- (2) The types of waste involved;

- (3) The desired response action;
- (4) The estimated schedule for effective emergency response; and
- (5) Other information relevant to determining that an emergency condition as specified in Env-Wm 313.01(b) exists.

(c) Based on the information provided pursuant to (b) above, the department shall make a preliminary determination as to the applicability of an emergency permit pursuant to the provisions of Env-Wm 313.01(b) and so advise the applicant.

(d) If the department determines that the situation warrants an application for emergency permit, the department shall make a preliminary determination as to which of the discretionary permit application requirements shall not apply, as provided in Env-Wm 313.02(b), and shall so advise the applicant.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; amd by #6372, eff 11-16-96; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 313.04 Emergency Facility Permit Application Content and Format. The applicant for an emergency facility permit shall provide the following information compiled in the order shown:

- (a) Identification of parties;
- (b) Facility identification;
- (c) A description of the emergency conditions that pose the threat to public health, safety or the environment, including an explanation of the cause of the emergency conditions;
- (d) Certification from the local health officer or fire chief that the conditions do pose a threat to public health, safety or the environment, or, if such certification cannot be obtained, a statement that such certification was sought and an explanation as to why certification was refused;
- (e) A description of the activity proposed to address the emergency conditions and information to demonstrate the activity shall comply with all applicable permitting requirements; and
- (f) A description of any post-activity monitoring proposed.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 313.05 Emergency Facility Permit Application Filing. Applications for an emergency facility permit shall be signed and filed by the applicant in accordance with Env-Wm 303.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6372, eff 11-16-96; ss by #6619-B, eff 10-29-97

Env-Wm 313.06 Emergency Facility Permit Application Processing. Applications for an emergency facility permit shall be processed by the department in accordance with Env-Wm 304 and Env-Wm 305, as follows:

- (a) Following receipt of a complete application, the department shall determine whether the information provided in the permit application and other available information demonstrates that the proposed activity shall be necessary to protect the environment, public health and safety;
- (b) If the department determines that the proposed activity is necessary to protect the environment, public health and safety and that all other requirements identified in Env-Wm 313.01(b) and Env-Wm 313.02 are met, the department shall issue the permit;

(c) If the department determines it shall issue a permit, authorization to commence the emergency response activity shall be given orally by the director, or person so authorized by the director, and a written permit shall be issued within 10 working days thereafter; and

(d) An emergency permit shall be effective for the time period required to complete the emergency response action(s) identified in the permit and complete facility closure.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

PART Env-Wm 314 STANDARD FACILITY PERMITTING PROVISIONS

Env-Wm 314.01 Purpose and Applicability.

(a) The rules in this part specify the requirements for obtaining a standard permit.

(b) A standard permit shall apply to a facility which:

- (1) Is not permit-exempt pursuant to Env-Wm 302.03;
- (2) Is not eligible for a permit-by-notification pursuant to Env-Wm 2107, Env-Wm 2207, Env-Wm 2307, Env-Wm 2407, or Env-Wm 2509;
- (3) Is not eligible for a research and development permit pursuant to Env-Wm 312;
- (4) Is not eligible for an emergency permit pursuant to Env-Wm 313; and
- (5) If a temporary permit facility, it elects to continue operating following call of the temporary permit and is not a landfill.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97; ss by #6894-B, eff 12-1-98

Env-Wm 314.02 Applicable Requirements and Limitations.

(a) A standard permit facility shall comply with:

- (1) Env-Wm 2700;
- (2) Env-Wm 2800, if the facility has an active life longer than 90 days;
- (3) Env-Wm 2100 through Env-Wm 2500, as applicable based on the functional classification of the facility;
- (4) Env-Wm 2600, as applicable based on the type of waste managed by the facility; and
- (5) Env-Wm 3100.

(b) A standard permit shall be subject to the provisions in Env-Wm 315 for permit modification, including permit transfer and renewal.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 314.03 Standard Facility Permit Application Content and Format.

(a) A standard permit application shall be organized and prepared by the applicant as follows:

- (1) Section 1, "identification," shall include the information required by Env-Wm 314.04 and Env-Wm 314.05;
- (2) Section 2, "facility description," shall include the information required by Env-Wm 314.06;
- (3) Section 3, "other permits," shall include the information required by Env-Wm 314.07;
- (4) Section 4, "legal notifications and agreements," shall include the information required by Env-Wm 314.08 and Env-Wm 314.09;
- (5) Section 5, "site report," shall include the information required by Env-Wm 314.10;
- (6) Section 6, "plans and specifications," shall include the information required by Env-Wm 314.11;
- (7) Section 7, "operating plan," shall be:
 - a. Prepared in accordance with Env-Wm 2805.11; or
 - b. Marked "not applicable" if the facility is no longer operating and is not proposing to recommence operations;
- (8) Section 8, "closure plan," shall be prepared in accordance with Env-Wm 2806.04;
- (9) Section 9, "financial report," shall include the information required by Env-Wm 314.12;
- (10) Section 10, "performance history," shall include:
 - a. The information required by Env-Wm 303.13 and Env-Wm 303.14; and
 - b. Certification that the information required by Env-Wm 316 has been submitted to the department of justice, if applicable.
- (11) Section 11, "public benefit," shall include the information required by RSA 149-M:11 in conformance with the provisions of Env-Wm 2705.05;
- (12) Section 12, "signature," shall include the signatures required by Env-Wm 303; and
- (13) Section 13, "fee," shall include a fee calculation form provided by the department, which shall contain the information required to calculate the permit application fee in accordance with Env-Wm 310.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97; ss by #6894-B, eff 12-1-98

Env-Wm 314.04 Facility Identification. The applicant shall identify the facility, by providing the following information:

- (a) Facility identification, as specified by Env-Wm 102.64; and
- (b) Facility status, including:
 - (1) Whether the facility is a proposed or existing facility; and
 - (2) Identification of solid waste management permits and other approvals already issued by the department for the facility;

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97; ss by #6894-B, eff 12-1-98

Env-Wm 314.05 Identification of Parties. The applicant shall identify parties, as specified by Env-Wm 102.84.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 314.06 Facility Description. The applicant shall describe the facility, including the following information:

- (a) Facility functional classification as identified in Env-Wm 302;
- (b) The type of ownership of the facility, namely whether a public facility or private facility;
- (c) The facility service type, namely whether a limited service area facility or an unlimited service area facility;
- (d) The type(s) of waste to be received by the facility and the type(s) of waste to be prohibited by the facility, or, for a facility which is no longer operating and which is not proposing to recommence operations, the type(s) of waste the facility did receive;
- (e) The capacity for each facility function as follows:
 - (1) Storage, expressed in tons and cubic yards;
 - (2) Processing or treatment, expressed in tons and cubic yards per day on average annually; and
 - (3) Disposal, expressed in tons and cubic yards;
- (f) The designed life expectancy of the facility or, for a facility which is no longer operating and which is not proposing to recommence operations, the date the facility started operating and the date the facility stopped operating; and
- (g) Identification of the facility service area, which:
 - (1) For a limited service area facility, shall be specified by identifying the precise geographic area(s) and/or generator(s) to be served by the facility; and
 - (2) For an unlimited service area facility, shall be specified by identifying the geographic area(s) and/or generators most likely to be served by the facility.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97; ss by #6894-B, eff 12-1-98

Env-Wm 314.07 Status of Other Permits/Approvals. The applicant shall identify and provide the status of other required permits and approvals as follows:

- (a) Identify, in a list, all local and other state or federal permits or approvals which are, or may be required, for the facility; and
- (b) Indicate in the list the status of each application or approval, as follows:
 - (1) If an application has not yet been filed, the anticipated filing date;

(2) If an application has been filed, the date of filing and the nature of any subsequent communications from the issuing authority, if any; and

(3) If a permit or approval has been issued, the date of issuance and the expiration date, if any.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 314.08 Legal Notifications and Agreements.

(a) Each applicant for a standard permit shall notify all abutters, the host municipality, host solid waste district and other affected entities in accordance with Env-Wm 303.

(b) The applicant shall include in the permit application:

(1) A copy of the written notification(s);

(2) A list of all required recipients including name and mailing address; and

(3) Copies of the signed registered letter receipts or signed acknowledgments of receipt for each required recipient.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 314.09 Concurrence of Property Owner. If the applicant and the property owner are not the same, the applicant shall provide information to demonstrate how compliance with the requirements of Env-Wm 2703.03 shall be obtained prior to the effective date of a permit, if issued, and shall include copies of all relevant legal agreements.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97; ss by #7225, eff 3-31-00

Env-Wm 314.10 Site Report.

(a) The applicant shall provide a site report which either:

(1) Demonstrates that:

a. The location of the facility complies with all applicable siting requirements, as noted in Env-Wm 314.02(a); and

b. The facility site is, in all other respects, a suitable location for the facility; or

(2) For an existing facility which is no longer operating and which is not proposing to recommence operations, identifies and describes:

a. The location of the facility;

b. Existing site features and conditions;

c. The physical relationship of the facility to its surroundings; and

d. Environmental effects, both adverse and beneficial, caused by the facility.

(b) The information required by (a) above shall specifically include:

- (1) A copy of the local tax map(s) which shows the property on which the facility is, or will be, sited and which identifies all abutters required to be notified pursuant to Env-Wm 303;
- (2) Map(s) identifying surrounding land use and zoning;
- (3) A narrative description of the site, including:
 - a. A physical description;
 - b. A 50-year history of the use(s) of the site; and
 - c. A discussion of any known or suspected conditions at the site which are or should be of environmental, public health or safety concern;
- (4) Map(s) and narrative discussion of the facility's proximity to and/or impact on sensitive environments, including, but not limited to, flood hazard zones, wetlands, habitat for endangered or threatened wildlife, designated rivers, other surface waters, and water supplies;
- (5) A hydrogeological report of the site if the facility has managed or will manage waste which has the potential to cause groundwater or surface water contamination, including, as applicable, all information required by the administrative rules for groundwater management and groundwater release detection permits, Env-Wm 1403.
- (6) Discussion of anticipated traffic impacts by the facility, unless the facility is no longer operating and is not proposing to recommence operations; and
- (7) Other information as required to demonstrate compliance with the applicable siting requirements.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97; ss by #6894-B, eff 12-1-98; amd by #7225, eff 3-31-00

Env-Wm 314.11 Plans and Specifications. The applicant shall provide plans and specifications prepared in accordance with Env-Wm 2803.05, as follows:

- (a) For a proposed facility, the applicant shall submit preliminary design plans and specifications with calculations and other supporting documentation necessary to demonstrate compliance with all applicable design requirements, as noted in Env-Wm 314.02(a); and
- (b) For an existing facility, the applicant shall submit:
 - (1) A plan showing the existing facility; and
 - (2) Preliminary design plans and specifications, as specified by (a) above, for any proposed changes to the existing design.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97; ss by #6894-B, eff 12-1-98

Env-Wm 314.12 Financial Report. The applicant shall provide a financial report, including:

- (a) The estimated cost of constructing the facility, unless the facility is an existing facility and no new construction is proposed;
- (b) The type and source of financing for any new construction being proposed;

(c) The estimated facility operating cost(s), unless the facility is no longer operating and is not proposing to recommence operations;

(d) For a proposed facility or an existing facility that will continue operating, the estimated tipping fees or, if no tipping fee will be assessed by the facility, the estimated average cost per ton to manage waste at the facility;

(e) The estimated costs of closure and post-closure monitoring based on the requirements set forth in Env-Wm 3100; and

(f) A financial assurance plan in accordance with Env-Wm 3100.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97; ss by #6894-B, eff 12-1-98

Env-Wm 314.13 Other Information. In the event the information submitted is insufficient for the department to make an independent determination that the facility and all persons associated therewith comply with the requirements of RSA 149-M and the solid waste rules and protect human health, safety and the environment, the applicant shall submit such additional information as the department determines necessary to make the determination.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 314.14 Application Filing. Standard facility permit applications shall be signed and filed by the applicant as specified in Env-Wm 303, with the fee as specified in Env-Wm 310.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 314.15 Application Review and Decision. Standard facility permit applications shall be reviewed in accordance with Env-Wm 304 and Env-Wm 305.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

PART Env-Wm 315 PERMIT MODIFICATION

Env-Wm 315.01 Applicability.

(a) Except as specified by (b) through (d) below, the rules in this part shall apply to modifying facility permits issued pursuant to RSA 149-M and the solid waste rules, including action to transfer a permit and renew an expiring permit.

(b) The rules in this part shall not apply to transferring a permit-by-notification, as specified by Env-Wm 311.02(c).

(c) The rules in this part pertaining to a type III permit modification shall not apply to applicants unable to certify compliance pursuant to Env-Wm 303.14. Instead, the provisions for obtaining a type I-B permit modification shall apply.

(d) The rules in this part shall not apply to permit modifications initiated by the department pursuant to Env-Wm 306.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97; amd by #6894-B, eff 12-1-98

Env-Wm 315.02 Definitions.

(a) "Type I modification" means an amendment to the terms and conditions of a permit that is not a type II through type V modification. The term includes type I-A and type I-B modifications.

(b) "Type I-A modification" means a type I modification that has the potential to adversely affect the state's ability to achieve the waste reduction goal in RSA 149-M:2 by means of establishing and maintaining an integrated system of facilities which is consistent with the hierarchy in RSA 149-M:3 and which provides a substantial public benefit pursuant to RSA 149-M:11. Examples of type I-A modifications include, but are not limited to:

- (1) Increasing the approved design capacity of a facility;
- (2) Changing the expiration date of a permit;
- (3) Reducing the operating life expectancy of a New Hampshire landfill without a comparable reduction in the permitted capacity of the landfill, as by directly or indirectly increasing the quantity of waste received daily;
- (4) Expanding the permitted service area of a facility;
- (5) Changing the facility service type from a limited service area facility to an unlimited service area facility; and
- (6) Changing facility operations to include a waste management method less preferred in the RSA 149-M:3 hierarchy than authorized by the current terms and conditions of the permit.

(c) "Type I-B modification" means a type I modification that is not a type I-A modification because, based on information available at the time the modification is proposed, there is no expectation that the proposed change will adversely affect the state's ability to achieve the waste reduction goal in RSA 149-M:2 by establishing and maintaining an integrated system of facilities which is consistent with the hierarchy in RSA 149-M:3 and which provides a substantial public benefit pursuant to RSA 149-M:11. The term includes modifications that would fall within the scope of a type III permit modification, but are excluded from being a type III modification because the permittee is unable to certify compliance pursuant to Env-Wm 303.14.

(d) "Type II modification" means an amendment to the terms and conditions of a permit to approve and incorporate by reference final or revised design, operating, financial assurance or closure plans for a facility which have been prepared pursuant to a condition of the permit or a solid waste rule specifically requiring submission of such plans. Examples of type II modifications include, but are not limited to:

- (1) Approving final plans for construction, operation, financial assurance or closure of a facility based on preliminary plans provided in the application, as required to satisfy prerequisites for construction or operation pursuant to Env-Wm 2800, and Env-Wm 305.05(b) and (c); and
- (2) Approving preliminary plans for closure of a landfill under the provisions of a temporary permit pursuant to Env-Wm 307.08(b).

(e) "Type III modification" means an amendment to the terms and conditions of a permit, held by a permittee able to certify compliance pursuant to Env-Wm 303.13 and Env-Wm 303.14, to effect one of the following minor changes:

(1) A change in facility operating hours within the limits specified in Env-Wm 2805.08(a) or within alternative limits specified in the permit pursuant to Env-Wm 2805.08(b);

(2) A change in a key above ground site feature, including a facility structure or appurtenance, which:

a. Is made subsequent to filing record drawings in accordance with Env-Wm 2804.07;

b. Does not:

1. Alter the permitted function(s) of the facility;

2. Change the basis of the approved facility design; or

3. Violate any applicable siting criteria specified in the solid waste rules; and

c. Is merely a change to improve facility operations within the limits specified in the permit; and

(3) A change in facility operations to separately collect, store and transfer source separated select recyclable materials not previously managed separately by the facility, to the extent that the activity:

a. Does not increase either the approved design or storage capacity of the facility; and

b. Does not require a change in the approved financial assurance plan of record for the facility.

(4) For landfills, a change in the type of cover material to be used at the facility, pursuant to Env-Wm 2506.03;

(5) A name change for the permittee or facility that does not constitute a type IV modification; and

(6) A change in organizational structure, officers, directors, partners, key employees or entities holding 10% or more of the permittee's equity or debt that does not constitute a type IV modification.

(f) "Type IV modification" means an amendment to the terms and conditions of a permit to authorize permit transfer and record a change in the:

(1) Operational control of a facility; or

(2) Ownership of the facility, as follows:

a. For a partnership, a change in the majority of general partners;

b. For a corporation, a transfer of all corporate assets or of a majority of voting shares to a new individual or entity;

c. For other organizations, a transfer of the control of the organization to a new individual or entity; and

d. For an individual, transfer of control to another individual or entity.

(g) "Type V modification" means an amendment to the terms and conditions of a permit pursuant to Env-Wm 2805.06(b) to allow facility records to be stored at off-site locations or to be destroyed.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; amd by #5296, eff 12-24-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97; amd by #6894-B, eff 12-1-98; amd by #7225, eff 3-31-00

Env-Wm 315.03 Approval Required.

(a) Before making a modification to the design, construction, operation or closure of a facility as permitted by the department, the permittee shall obtain written approval for such modification in accordance with this part.

(b) A permittee shall request approval to implement a facility modification by filing an application for permit modification as follows:

(1) For a type I modification, the permittee shall submit an application that provides the information specified in Env-Wm 315.05;

(2) For a type II modification, the permittee shall submit an application that provides the information specified in Env-Wm 315.06;

(3) For a type III modification, the permittee shall submit an application in the form of a notification that provides information specified in Env-Wm 315.07;

(4) For a type IV modification, the existing permittee and proposed new permittee shall be co-applicants and shall submit an application that provides the information specified in Env-Wm 315.08; and

(5) For a type V modification, the permittee shall submit an application that provides information as specified in Env-Wm 315.09.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 315.04 Permit Modification Application Filing Procedures.

(a) All applications to modify a permit shall be signed and filed by the permittee in accordance with Env-Wm 303.

(b) Applications for a type IV modification shall be signed and filed by both the existing permittee and the proposed permittee, as co-applicants.

(c) Applications for a type III modification shall include the following signature requirements in addition to the requirements specified in Env-Wm 303:

(1) A signed statement by the permittee certifying that:

a. The proposed change is within the defined limits of a type III modification pursuant to Env-Wm 315.02;

b. The proposed change shall not cause the facility to contravene any applicable requirement in Env-Wm 2700 or violate any other condition of the permit; and

c. In accordance with Env-Wm 303.13, the compliance standards in Env-Wm 303.14 are met;

(2) If the permittee is not the property owner, a signed statement by the property owner to certify acceptance of the modification; and

(3) For a type III modification to effect a name change pursuant to Env-Wm 315.02(e), certification that:

a. The proposed change is based solely on a change in the name of the permittee or facility, as applicable, and that no change in officers, directors, partners, key employees or persons holding 10 percent or more of the permittee's equity or debt shall occur as a consequence of the change in name; and

b. That the permittee shall publish notice and submit proof thereof as required by Env-Wm 305.06(e).

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97; amd by #6894-B, eff 12-1-98

Env-Wm 315.05 Application Content and Format, Type I Modifications. For a type I permit modification, the permittee shall provide the following information and materials, compiled in the order shown:

(a) Facility identification;

(b) Identification of parties;

(c) A complete description of the proposed modification, including:

(1) The type of modification as specified by Env-Wm 315.02;

(2) Identification of each written permit condition which shall require amendment to effect the proposed modification and draft language for the same;

(3) Identification of each document incorporated by reference into the permit and requiring amendment to effect the proposed modification, including design plans, operating plans, closure plans and financial assurance plans;

(4) Draft amendments for each document identified pursuant to (3) above, as follows:

a. If the proposed modification requires changes to the last approved facility design plan(s) of record, the revised design plan(s) shall be prepared in accordance with Env-Wm 2803.05;

b. If the proposed modification requires changes to the last approved facility operating plan of record, the required amendments shall be prepared in accordance with Env-Wm 2805 and, subject to e. below, may be presented in the form of replacement pages ready for substitution into the plan of record, each page being clearly marked to show the date of revision;

c. If the proposed modification requires changes to the last approved facility closure plan of record, the required amendments shall be prepared in accordance with Env-Wm 2806 and, subject to e. below, may be presented in the form of replacement pages ready for substitution into the plan of record, each page being clearly marked to show the date of revision;

d. If the proposed modification requires changes to the last approved financial assurance plan of record, the proposed revisions shall be presented in the form of a complete financial assurance plan as specified in Env-Wm 3100 and shall include all related draft financial assurance documents required to effect the proposed modification; and

e. In the event there is no last approved plan of record for any of a. through d. above, a plan shall be provided as specified in Env-Wm 2803.05, Env-Wm 2805, Env-Wm 2806 and/or Env-Wm 3100, as applicable, based on the proposed modified facility; and

- (5) Information demonstrating that the proposed modified facility meets all requirements of the solid waste rules;
- (d) A proposed schedule for implementing the modification;
- (e) A statement of need describing why the proposed change is necessary or desirable;
- (f) Identification of the impacts, both positive and adverse, which the proposed modification will have, including the following considerations:
 - (1) The effect the modification will have on facility function, capacity, life expectancy, service type and service area;
 - (2) The effect the modification will have on the environment, public health and safety;
 - (3) The effect the modification will have on the state's ability to achieve the goals and objectives specified in RSA 149-M:2;
 - (4) The effect the modification will have on establishing and maintaining integrated waste management systems consistent with the hierarchy of waste management methods in RSA 149-M:3; and
 - (5) Information that demonstrates that the facility, as modified, will be consistent with the state solid waste management plan and the applicable district plan, pursuant to RSA 149-M:12, I(b);
- (g) For a type I-A modification, a demonstration of public benefit in accordance with RSA 149-M:11 and in conformance with the provisions of Env-Wm 2705.05;
- (h) Identification and status of all other permits or approvals necessary to effect the proposed modification;
- (i) Proof that municipalities, districts and other affected entities have been provided a copy of the application and a notice of filing as specified by Env-Wm 303; and
- (j) For a type I-A modification, proof that notification of abutters has been made in accordance with Env-Wm 303.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 315.06 Application Content and Format, Type II Modifications. For a type II permit modification, the permittee shall provide:

- (a) Facility identification;
- (b) Identification of parties;
- (c) A narrative description of the proposed modification, including:
 - (1) The type of modification as specified by Env-Wm 315.02;
 - (2) Copy of the plans for which approval is being sought, as follows:
 - a. Construction plans and specifications shall be prepared in accordance with Env-Wm 2803.05;

b. Operating plans shall be prepared in accordance with Env-Wm 2805 and, subject to (d) below, may be presented in the form of replacement pages ready for substitution into the last approved plan of record, each page being clearly marked to show the date of revision;

c. Closure plans shall be prepared in accordance with Env-Wm 2806 and, subject to (d) below, may be presented in the form of replacement pages ready for substitution into the last approved plan of record, each page being clearly marked to show the date of revision; and

d. Financial assurance plans shall be prepared in accordance with Env-Wm 3100;

(3) Identification of the preliminary plans incorporated by reference into the permit which provide the basis for the final plans; and

(4) A proposed schedule for implementing the modification.

(d) In the event there is no approved plan of record, as referenced in (c)(2)b. and (c)(2)c. above, or the approved plan of record does not conform to the applicable plan requirements in Env-Wm 2805 or Env-Wm 2806, a plan shall be provided that meets the applicable requirements and includes all modifications for which approval is being sought.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; amd by #5296, eff 12-24-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 315.07 Application Content and Format, Type III Modification. For a type III permit modification, the permittee shall provide:

(a) Facility identification;

(b) Identification of parties;

(c) A description of the proposed modification, including:

(1) Identification of the type of modification as specified by Env-Wm 315.02; and

(2) Identification of the proposed changes, as follows:

a. If for a change in facility operating hours, the days and hours of operation after the modification takes effect;

b. If for a change in site feature, a description of the changed feature and a site plan showing the changed feature;

c. If for a change in the type of recyclables collected, identification of the new types being collected and the method for storage;

d. If for a change in the type of landfill cover material to be used at the facility, identification of the type in conformance with the options provided in Env-Wm 2506.03;

e. If for a change in permittee or facility name, identification of the new name; and

f. If for a change in organizational structure, officers, directors, partners, key employees or entities holding 10% or more of the permittee's equity or debt:

1. A precise description of what is changing;

2. The personal and business disclosure and performance history information required by Env-Wm 316; and

3. Proof of operator certification if the proposed change requires a change in operator certification pursuant to Env-Wm 3300 and Env-Wm 2705.07; and

(d) A proposed schedule for implementing the modification.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; amd by #5296, eff 12-24-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 315.08 Application Content and Format, Type IV Modifications. For a type IV permit modification, the existing permittee and the proposed permittee, acting as co-applicants, shall provide:

(a) Facility identification;

(b) Identification of parties, both existing and proposed;

(c) Description and supporting documentation for the proposed modification, including:

(1) Identification of the type of modification as specified in Env-Wm 315.02;

(2) Reference to each written permit condition which shall require amendment to effect the proposed modification and draft language for the same;

(3) The personnel and business information and performance history information required by Env-Wm 316;

(4) Proof of operator certification if the proposed change shall require a change in operator certification pursuant to Env-Wm 3300 and Env-Wm 2705.07; and

(5) A financial assurance plan by the proposed new permittee for the cost of closing the facility pursuant Env-Wm 3100;

(d) A proposed schedule for implementing the modification;

(e) Identification and status of all other permits or approvals necessary to effect the proposed modification, if any;

(f) Proof that the host municipality and host solid waste management district have been provided a copy of the application and a notice of filing as specified by Env-Wm 303; and

(g) Proof that notification of abutters has been made in accordance with Env-Wm 303.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 315.09 Application Content and Format, Type V Modification. For a type V permit modification, the permittee shall provide:

(a) Facility identification;

(b) Identification of the parties;

(c) A description of the proposed modification, including:

(1) Identification of the type of modification as specified by Env-Wm 315.02;

(2) Identification of the contents of the subject record(s), including type of information and time period covered;

(3) If the proposal is to relocate the records, identification of the following:

- a. The location where the records are proposed to be stored, by street address, municipality and state;
- b. The owner of the proposed storage location;
- c. A description of the measures that shall be taken to protect the records against destruction and to prevent unauthorized access to the records while in storage; and
- d. A description of how the department shall be provided access to the records pursuant to Env-Wm 3700; and

(4) If the proposal is to destroy the records, an explanation of need; and

(d) A proposed schedule for implementing the modification.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; amd by #5296, eff 12-24-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 315.10 Application Review and Decision.

(a) All applications to modify a permit shall be reviewed in accordance with Env-Wm 304 and Env-Wm 305.

(b) In addition to the provisions for denial in Env-Wm 305.03, the department shall deny any application to modify a permit if:

(1) The applicant is unable to certify compliance pursuant to Env-Wm 303.14, unless, for other than a type III permit modification, the applicant:

- a. Demonstrates in the compliance report that the circumstance(s) for non-compliance are not cause for the department to deny the requested approval pursuant to the provisions of RSA 149-M:9,IX or X; and
- b. Agrees to comply with a plan and schedule for achieving compliance.

(2) The modification constitutes a change in the facility's functional classification as described in Env-Wm 302, which otherwise requires a new facility permit; or

(3) The modification constitutes an expansion of facility operations under the provisions of a temporary permit.

(c) The department shall approve a type V permit modification request to store facility records off-site if the application demonstrates that the records shall be adequately protected against loss or damage and shall remain accessible to the department as required by the solid waste rules.

(d) The department shall not approve a type V permit modification to destroy records, if:

(1) Any benefits shall be obtained by requiring the records to be retained, for instance by assisting in development of a closure or post-closure monitoring plan or otherwise to assist future studies to determine compliance with state or federal regulations; or

(2) If the facility is the subject of any pending investigation or enforcement action.

(e) Pursuant to Env-Wm 2804, a type II permit modification granting construction plan approval shall:

- (1) Expire one year from the date of issuance if construction is not commenced; and
- (2) Be subject to terms and conditions as necessary to assure that the facility is constructed in accordance with the approved plans and specifications, all applicable rules and regulations, and other terms and conditions of the permit.

Source. #6619-B, eff 10-29-97; amd by #6894-B, eff 12-1-98

PART Env-Wm 316 PERFORMANCE HISTORY REQUIREMENTS

Env-Wm 316.01 Purpose. The rules of this part are intended to provide the department with the information necessary to determine, as provided in RSA 149-M:9,III and IX, whether an applicant, owner, facility operator, or any of the applicant's officers, directors, partners, key employees, or major debt or equity holders, has been convicted of or pled guilty or no contest to a felony within 5 years of the date of the permit application, or has failed to demonstrate sufficient reliability, expertise, integrity and competence to operate a solid waste facility.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; amd by #5296, eff 12-24-91; ss by #6619-B, eff 10-29-97; ss by #6894-B, eff 12-1-98

Env-Wm 316.02 Applicability.

(a) Except as noted in (b) below, the rules in this part shall apply to applicants for following types of permits and approvals:

- (1) Standard facility permit pursuant to Env-Wm 314;
- (2) Research and development facility permit pursuant to Env-Wm 312, whenever the applicant is unable to certify compliance pursuant to Env-Wm 303.14;
- (3) Type IV permit modification as specified in Env-Wm 315 to transfer ownership or operational control of the facility; and
- (4) Type I-B permit modification to approve a change in the organizational structure of the permittee, including:
 - a. A change resulting in a new individual or entity holding 10% or more of the permittee's equity or debt;
 - b. The addition of a new officer, director, or partner; or
 - c. The addition of any individual or entity having managerial or supervisory or substantial decision-making authority and responsibility for the management of facility operations or activities for which approval is being sought.

(b) The rules in this part shall not apply to an applicant which is a town, governmental unit, agency or political subdivision of the state, or combination thereof.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; amd by #5296, eff 12-24-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97; ss by #6894-B, eff 12-1-98

Env-Wm 316.03 Disclosure Required.

(a) Applicants, as identified in Env-Wm 316.02, shall submit to the department of justice (DoJ), as part of the application, personal and business disclosure information pursuant to Env-Wm 316.06 for all entities and individuals identified in Env-Wm 316.05.

- (b) Applicants shall cooperate fully with the DoJ during the background investigation.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 316.04 Form of Disclosure.

- (a) Disclosure of personal and business information shall be on such forms as provided by the DoJ.
- (b) The applicant shall sign the forms to attest to:

- (1) Having made diligent inquiry into all matters disclosed; and
- (2) The truth and accuracy of all matters disclosed.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 316.05 Entities and Individuals Required to Submit Information.

(a) If the applicant is an individual, the applicant shall submit a completed personal and business disclosure form for the applicant.

- (b) If the applicant is not an individual, the applicant shall submit:

- (1) A completed business disclosure form for:

- a. The applicant;
- b. Each entity that is, or is proposed to be:
 1. A partner;
 2. An entity contracted with the applicant to operate, manage or supervise the facility or activities for which approval is being sought;
 3. An entity holding of 10% or more of the applicant's debt; or
 4. An entity holding 10% or more of the applicant's equity; and
- c. The parent corporation, holding corporation, and any other entity that exercises control over the facility or activities for which approval is being sought; and

- (2) A completed personal disclosure form for each individual which has, or is proposed to have, any of the following relationships with the applicant:

- a. Director;
- b. Partner;
- c. Officer;
- d. All individuals and entities having managerial or supervisory or substantial decision-making authority and responsibility for the management of facility operations or the activity(s) for which approval is being sought;
- e. Holder of 10% or more of the applicant's debt; or

f. Holder of 10% or more of the applicant's equity.

(c) If the applicant and the facility operator are not the same, the applicant shall also submit personal and business disclosure information for the facility operator as though the facility operator is the applicant and as described in (a) and (b) above.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97; ss by #6894-B, eff 12-1-98

Env-Wm 316.06 Scope of Disclosure.

(a) Each individual required to submit a disclosure form shall provide the information requested on the personal information disclosure form, including:

- (1) Personal identifying data such as name, address, physical description, date and place of birth, nationality, residential history and motor vehicle information;
- (2) Marital and family information, including information about relatives in the solid waste industry;
- (3) Education, military and professional experience, employment history, public offices, and waste management licenses and experience;
- (4) Other business and financial interests; and
- (5) Involvement in professional or environmental violations, or civil or criminal proceedings.

(b) Each entity required to submit a disclosure form shall provide the information requested on the business information disclosure form, including:

- (1) Business identifying data such as names, date and nature of organization, ownership, principal location and address, and past and present facilities;
- (2) Corporate, partnership or business venture history and structure, including information about key employees, officers, directors, partners and trustees as applicable;
- (3) Information about subsidiaries and affiliated entities;
- (4) Experience and credentials in the waste management industry, including waste permits and licenses held;
- (5) History of environmental violations, and other administrative, civil or criminal proceedings;
- (6) Equity structure and debt liability; and
- (7) Financial history.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; amd by #5296, eff 12-24-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 316.07 Filing of Disclosure Forms.

(a) The applicant shall transmit all original signed disclosure forms by certified mail, return receipt requested or by hand-delivery to the DoJ's environmental bureau chief in the office of the attorney general.

(b) The submittal made pursuant to (a) above shall be accompanied by a notice of filing pursuant to Env-Wm 303.12.

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 316.08 Background Investigation Fee. Pursuant to Env-Wm 310 and upon presentation of an accounting and request for payment from the DoJ, the applicant shall pay the cost incurred by the DoJ to complete the background investigation and prepare a report to the department as required in RSA 149-M:9,III and IX.

Source. #6619-B, eff 10-29-97

Source. #6619-B, eff 10-29-97; rpld by #6894-B, eff 12-1-98

PARTS Env-Wm 317 through Env-Wm 319 RESERVED

Source. (See Revision Note at PART Heading Env-Wm 101) #5172, eff 7-1-91; amd by #5296, eff 12-24-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; rpld by #6619-B, eff 10-29-97

PARTS Env-Wm 320 through Env-Wm 344 RESERVED

Source. #5172, eff 7-1-91

PART Env-Wm 345 STATE-GUARANTEED BONDS FOR CLEAN-UP OR CLOSURE OF WASTE SITES - EXPIRED

Source. INTERIM, #5452, eff 8-26-92, EXPIRED 12-24-92

PARTS Env-Wm 346 through Env-Wm 350 RESERVED

CHAPTER Env-Wm 2100 COLLECTION, STORAGE, AND TRANSFER FACILITY REQUIREMENTS

Statutory Authority: RSA 149-M:7

PART Env-Wm 2101 APPLICABILITY

Env-Wm 2101.01 Applicability. The rules in this chapter shall apply as specified in Env-Wm 101.02(c) to collection, storage and transfer (C/S/T) facilities, including transfer stations and recycling facilities.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

PART Env-Wm 2102 PERMITTING REQUIREMENTS

Env-Wm 2102.01 Permit Required.

(a) A permit issued pursuant to the solid waste rules shall be required for construction, operation and closure of a C/S/T facility, unless exempt pursuant to Env-Wm 302.03 or Env-Wm 2108.

(b) The type of permit required shall be as specified in Env-Wm 302.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2102.02 Permit Application Requirements. The applicant for a C/S/T facility permit shall prepare the application in accordance with:

- (a) Env-Wm 314 for a standard permit;
- (b) Env-Wm 313 for an emergency permit;
- (c) Env-Wm 312 for a research and development permit; and
- (d) Env-Wm 311 for a permit-by-notification.

Source. #6619-B, eff 10-29-97

PART Env-Wm 2103 SITING REQUIREMENTS

Env-Wm 2103.01 Applicability.

(a) The siting requirements in this part shall apply to all C/S/T facilities, except:

- (1) Existing permitted facilities;
- (2) Permit-exempt facilities identified in Env-Wm 302.03 or Env-Wm 2108;
- (3) Permit-by-notification facilities having an active life of 90 days or less;
- (4) Research and development permit facilities as provided by Env-Wm 312.02(b); and
- (5) Emergency permit facilities as provided by Env-Wm 313.02(b).

(b) The siting requirements in this part shall apply as the complement of the siting requirements in Env-Wm 2703 for all facilities, Env-Wm 2802 for facilities having an active life longer than 90 days, and Env-Wm 2903 for permit-by-notification facilities.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2103.02 Setback Requirements.

(a) A C/S/T facility shall be sited no less than 50 feet from the footprint of any landfill not yet capped, except a lesser distance shall be permitted if the department determines based on information provided in the permit application and in an approved closure plan for the landfill that the lesser distance shall not prohibit compliance with Env-Wm 2703.01.

(b) A C/S/T facility shall be sited no less than 50 feet from any property line.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

PART Env-Wm 2104 DESIGN REQUIREMENTS

Env-Wm 2104.01 Applicability.

(a) The design requirements in this part shall apply to all C/S/T facilities, except:

- (1) Permit-exempt facilities;
- (2) Permit-by-notification C/S/T facilities having an active life of 90 days or less;
- (3) Research and development permit facilities as provided by Env-Wm 312.03(b); and
- (4) Emergency permit C/S/T facilities as provided by Env-Wm 313.02(b).

(b) The design requirements in this part shall apply as the complement of the design requirements in Env-Wm 2704 for all facilities, Env-Wm 2803 for facilities having an active life longer than 90 days, Env-Wm 2900 for permit-by-notification facilities and, depending on the type of waste managed, Env-Wm 2600.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2104.02 General Design Requirements. A C/S/T facility shall be designed to operate in conformance with Env-Wm 2105.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2104.03 Design Features and Appurtenances.

(a) The design of a C/S/T facility shall include each of the following features and appurtenances, except as provided in (b) below:

- (1) Waste receiving and inspection area(s);
- (2) Waste sorting area(s), if facility operations involve the sorting of waste;
- (3) Hot load segregation and control area(s);
- (4) Waste storage areas and devices including, as appropriate for the type of waste being stored, transfer containers, bins, concrete bunkers, covered pallets, buildings and storage pads for stockpiles;

- (5) Equipment required to operate the facility in conformance with the solid waste rules including, as applicable to the size and scope of operations, scales, balers, compactors, mechanical sorting devices, fork lifts, trucks and other vehicles;
 - (6) Equipment storage and cleaning areas;
 - (7) A closed drainage system or functionally equivalent operating system to manage the discharge of liquids, if any, from waste handling and storage areas and from equipment cleaning area(s);
 - (8) Lighting;
 - (9) Active or passive ventilation systems for enclosed areas;
 - (10) Fire control devices or systems, including smoke detectors, alarms, fire extinguishers and/or sprinkler systems as appropriate;
 - (11) Shelter for facility operators;
 - (12) Sanitation facilities for facility operators;
 - (13) First aid station for facility operators;
 - (14) Emergency communication for facility operators;
 - (15) Office or other area for maintaining and storing facility records; and
 - (16) Access control devices such as fencing, gates and bars, locked buildings and/or signs.
- (b) A design feature or appurtenance listed in (a) above shall not be required if:
- (1) The applicant or permittee, as applicable, demonstrates in a permit application, application for permit modification or compliance report, as applicable, that:
 - a. The underlying facility operating requirements in Env-Wm 2105, Env-Wm 2705, Env-Wm 2805 and Env-Wm 2600, as applicable, shall be met without the design feature or appurtenance or met through use of an alternative feature, appurtenance or practice; and
 - b. Not incorporating the design feature or appurtenance, as proposed, shall not result in a violation of the universal environmental performance requirements in Env-Wm 2702; and
 - (2) The department provides written approval thereof in the permit or permit modification, specifically including reference to any alternative feature, appurtenance or practice the facility shall employ as a condition of the approval.

Source. #6619-B, eff 10-29-97

Env-Wm 2104.04 Waste Handling and Storage Area Design Requirements.

- (a) A waste handling and storage area shall be designed to collect and contain waste in a manner that is protective of the environment, public health and safety.
- (b) Storage areas for waste being managed as a recyclable material shall be designed to preserve the market value of the material. For instance, waste paper destined for recycling shall be stored indoors, protected from rain and moisture.
- (c) A waste handling and storage area shall be delineated and signed to control and assure proper use of the area by facility users and operators, as appropriate based on the following factors:

- (1) Whether public access to the area will be allowed;
- (2) Whether a full time operator will be present to monitor and control use of the area;
- (3) Whether the area will be used to handle wastes requiring segregation from other waste types;
- (4) Whether the area will be used to handle wastes requiring no public contact in order to protect the environment, public health or safety; and
- (5) Whether the method of assuring the facility receives no excess waste will be based on visually monitoring the extent to which the designated storage area is filled.

(d) A waste handling and storage area shall be designed to manage and store waste in a manner that controls to the greatest extent practicable dust, litter, insects, odors, vectors, spills, the production of leachate, fire hazards including spontaneous combustion, the generation of methane and other hazardous or explosive gases, noise and nuisances.

(e) A waste storage and handling area shall be designed to prohibit public access to any area used for storing or handling a waste that requires special handling to assure protection of the environment, public health and safety.

(f) A C/S/T facility shall be designed to allow year round access by facility operators to all waste storage areas for the purposes of:

- (1) Inspection;
- (2) Monitoring;
- (3) Maintenance; and
- (4) The removal of waste as necessary to comply with Env-Wm 2105.04 and to protect the environment, public health and safety.

(g) Stockpiles shall be designed in conformance with the requirements of Env-Wm 2104.05.

(h) Storage areas for a waste listed in Env-Wm 2600 shall be designed in conformance with the applicable collection, storage and transfer requirements specified in Env-Wm 2600.

(i) Putrescible waste shall not be collected or stored on the ground.

(j) Mixed municipal solid waste, including mixed refuse, shall not be collected or stored on the ground.

Source. #6619-B, eff 10-29-97

Env-Wm 2104.05 Waste Stockpiles.

(a) Stockpiles of waste shall be positioned within a footprint identified on the facility site plan.

(b) If a stockpile will be open to precipitation, the footprint of the stockpile shall be:

- (1) Underlain by an asphalt, concrete or packed soil surface; and
- (2) Graded to prohibit precipitation and surface drainage from surrounding areas from draining through and/or collecting in the stockpile area.

(c) A waste stockpile shall be located, sized and configured in accordance with (d) below and as required by local fire authorities in order to assure that available local fire fighting equipment and resources will be able to effectively respond to a fire at the facility.

(d) At a minimum, a C/S/T facility shall be designed to:

- (1) Provide access to all waste stockpiles for fire control purposes, including the placement and maintenance of fire lanes between and around all stockpiles of combustible waste;
- (2) Limit the height of the stockpiles to a height compatible with local fire fighting equipment response capabilities; and
- (3) Provide a water supply within a distance and in a quantity sufficient for local fire fighting needs.

(e) A stockpile shall be sized and configured to be physically stable against slides, collapse or other conditions that might result in personal injury or destruction of property.

(f) A stockpile shall be covered when required to protect the environment, public health or safety.

(g) A stockpile of a waste listed in Env-Wm 2600 shall conform to the applicable stockpiling requirements specified in Env-Wm 2600, if any.

(h) If a waste exhibits a characteristic which has the potential to cause groundwater or surface water contamination when placed in contact with the ground surface, the waste shall be stockpiled in a manner as to prevent the contamination by means of a leachate collection system or functionally equivalent control system.

(i) If a waste exhibits a characteristic which has the potential to cause air pollution or a respiratory hazard, the waste shall be stockpiled in a manner as to prevent the air pollution and respiratory hazard in conformance with state and federal regulations for the control of air pollution, including RSA 125-C.

Source. #6619-B, eff 10-29-97

PART Env-Wm 2105 OPERATING REQUIREMENTS

Env-Wm 2105.01 Applicability.

(a) The operating requirements in this part shall apply to all C/S/T facilities, except:

- (1) Permit-exempt facilities identified in Env-Wm 302.03 or Env-Wm 2108;
- (2) Permit-by-notification facilities with an active life of 90 days or less;
- (3) Research and development permit facilities as provided by Env-Wm 312.03(b); and
- (4) Emergency permit facilities as provided by Env-Wm 313.02(b).

(b) The operating requirements in this part shall apply as the complement of the operating requirements in Env-Wm 2705 for all facilities, Env-Wm 2805 for all facilities having an active life longer than 90 days, Env-Wm 2904 for permit-by-notification facilities and, depending on the type of waste managed, Env-Wm 2600.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2105.02 Collection and Storage Requirements.

(a) A C/S/T facility shall not collect a waste for which it has no provisions for storage and/or for which available storage provisions are not protective of the environment, public health and safety.

(b) A C/S/T facility shall not receive any waste for which it has no arrangements for removal to an authorized facility.

(c) Waste shall be handled and stored only in areas that are designed and operated in conformance with Env-Wm 2104.04 and Env-Wm 2104.05.

(d) Materials destined for recycling shall be collected and stored in a manner as to preserve the market value of the material.

(e) Stockpiles of metal shall be maintained free of plastic, wood and other non-metal debris.

(f) White goods potentially containing polychlorinated biphenols (PCBs) shall be stored separately in an accessible location and in such a manner as to allow qualified personnel to examine each article and remove any PCB-containing components in accordance with applicable regulations.

(g) White goods potentially containing chlorinated fluorocarbons (CFCs) shall be stored in an accessible location and in such a manner as to allow qualified personnel to readily examine each article and extract any CFCs present in accordance with applicable regulations.

(h) If the facility manages a waste identified in Env-Wm 2600, the facility shall collect and store the waste in accordance with the applicable collection, storage and transfer requirements specified in Env-Wm 2600.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2105.03 Waste Transfer Requirements.

(a) All solid waste received by a C/S/T facility shall be actively managed.

(b) All solid waste leaving a C/S/T facility shall be transferred to an authorized facility.

(c) A waste shall not be stored at a C/S/T facility for a period of time which results in a condition adversely affecting the environment, public health or safety, including conditions that attract insects and vectors, generate odors or leachate, or have the potential to cause fire or explosion.

(d) Putrescible wastes shall be transferred from the facility before producing a noticeable odor or within one week of its receipt by the facility, whichever is earlier.

(e) If the facility manages a waste identified in Env-Wm 2600, the facility shall remove the waste in accordance with the applicable collection, storage and transfer requirements specified in Env-Wm 2600.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2105.04 Public Benefit Requirements. As a means for demonstrating that the facility meets the requirements for providing a substantial public benefit as specified in Env-Wm 2705, the operation of a C/S/T facility shall be deemed to provide a substantial public benefit without further demonstration when facility operations satisfy the following operating conditions:

(a) Irrespective of the source of the waste, the total quantity of waste transferred by the facility on an annual basis to New Hampshire landfills and New Hampshire incinerators shall not exceed the total quantity of waste received by the facility from New Hampshire generators, figured in tons;

(b) The facility shall operate, or be part of an integrated system which operates, in a manner which:

- (1) Separates and diverts recyclable materials to authorized facilities for reuse; and
- (2) Avoids disposal of recyclable materials in a lined landfill with a leachate collection system; and
- (c) During each calendar year that the facility receives waste, the permittee shall communicate with the host solid waste management district as specified in Env-Wm 2805.12.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

PART Env-Wm 2106 CLOSURE REQUIREMENTS

Env-Wm 2106.01 Applicability.

- (a) The closure requirements in this part shall apply to all C/S/T facilities, except:
 - (1) Permit-exempt facilities identified in Env-Wm 302.03 or Env-Wm 2108;
 - (2) Permit-by-notification facilities with an active life of 90 days or less;
 - (3) Research and development permit facilities as provided by Env-Wm 312.03(b); and
 - (4) Emergency permit facilities as provided by Env-Wm 313.02(b).

(b) The closure requirements in this part shall apply as the complement of the closure requirements in Env-Wm 2706 for all facilities, Env-Wm 2806 for facilities having an active life longer than 90 days, Env-Wm 2905 for permit-by-notification facilities and, depending on the type of waste managed, Env-Wm 2600.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2106.02 Removal of Processed Recyclable Materials. To comply with Env-Wm 2706.02(e), all processed recyclable materials shall be removed to an authorized facility and not remain at the closing facility under any claim of a permit exemption pursuant to Env-Wm 302.03.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

PART Env-Wm 2107 PERMIT-BY-NOTIFICATION FACILITIES

Env-Wm 2107.01 Purpose. The purpose of the rules in this part is to identify types of C/S/T facilities eligible for a permit-by-notification pursuant to Env-Wm 311.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; amd by #5297, eff 12-24-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2107.02 Limited Public Transfer Stations. A C/S/T facility shall be eligible for a permit-by-notification pursuant to Env-Wm 311, provided that the facility meets each of the following requirements:

- (a) The facility shall be a limited public facility;
- (b) The facility shall comply with the requirements of Env-Wm 2900;
- (c) The facility shall receive the following types of waste only:

- (1) Mixed municipal solid waste comprised principally of mixed refuse;
 - (2) Source separated select recyclable materials;
 - (3) Bulky waste, including white goods, furniture, and stumps;
 - (4) Construction and demolition debris;
 - (5) Tires; and
 - (6) Wood ash from household stoves; and
- (d) The capacity of the facility shall be restricted as follows:
- (1) The facility shall receive no more than 30 tons of waste per day on average:
 - a. Annually, for facilities operating longer than one year; and
 - b. Over the life expectancy of the facility, for facilities operating less than one year;
 - (2) The facility shall store no more than 14 times the maximum quantity of waste the facility shall be authorized in the permit to receive on average daily; and
 - (3) The storage limit specified by (2) above shall not include storage of select recyclable materials, provided that:
 - a. The materials are fully processed as specified by Env-Wm 102.128;
 - b. The materials are actively managed by the facility; and
 - c. Storage of the materials complies with the universal facility requirements in Env-Wm 2700 and, at facilities having an active life of longer than 90 days, the additional facility requirements in Env-Wm 2800.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; amd by #5297, eff 12-24-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97; amd by #6894-B, eff 12-1-98

Env-Wm 2107.03 Collection Centers for Select Recyclables. Facilities that collect and temporarily store select recyclable materials and transfer said materials to authorized facilities or markets for recycling, shall be eligible for a permit-by-notification pursuant to Env-Wm 311, provided that:

- (a) Select recyclable materials are the only type of solid waste received by the facility;
- (b) The select recyclable materials have been source separated by material type before delivery to the facility;
- (c) The select recyclable materials are actively managed; and
- (d) The facility complies with Env-Wm 2900.

Source. #7225, eff 3-31-00

Env-Wm 2107.04 Scrap Metal Collection and Recycling Centers. Facilities that only collect and temporarily store ferrous and/or non-ferrous scrap metal, and that transfer said scrap metal to authorized facilities or markets for recycling, shall be eligible for a permit-by-notification pursuant to Env-Wm 311, provided that:

- (a) The facility does not receive any:

- (1) Parts of a motor vehicle that contain or have contained fluids or lubricants, excluding lead acid batteries;
 - (2) Waste listed in Env-Wm 2600, including asbestos, ash, contaminated soils and other absorbent media, infectious waste, and tires; and
 - (3) Free draining oil or lubricants, including cutting oils mixed with or coating metal shavings;
- (b) The scrap metal goods, as received by the facility, are not mixed with other types of waste, including municipal solid waste, and construction and demolition debris;
- (c) The permittee identifies whether the scrap metal goods include any of the following substances or devices, and subsequently assures that such substances, if present, are managed in accordance with applicable state and federal rules and regulations, either at the facility or by transfer to another facility that provides such proper management:
- (1) Chlorofluorocarbons (CFC)s;
 - (2) Polychlorinated biphenyls (PCB)s;
 - (3) Mercury-containing switches and other devices;
 - (4) Batteries; and
 - (5) Other regulated substances, materials, and wastes;
- (d) All tanks, drums and other containers received by the facility have been emptied and cleaned of residues in accordance with applicable state and federal rules and regulations;
- (e) The scrap metal processing activities conducted at the facility are limited to sorting, cutting, crushing, baling, and/or smelting, provided the latter is done in units not requiring a permit under Env-A 600;
- (f) The scrap metal is actively managed;
- (g) All residual waste at the facility is:
- (1) Directly attributable to the allowable scrap metal processing activities;
 - (2) Segregated from the recyclable scrap metal and stored in accordance with Env-Wm 2105;
 - (3) Actively managed; and
 - (4) Not accumulated in excess of 30 cubic yards, unless the permittee establishes and maintains an approved financial assurance plan pursuant to Env-Wm 3100 to guarantee the cost of disposing of the residual waste; and
- (h) All other applicable permit-by-notification facility requirements are met as specified in Env-Wm 2900.

Source. #7225, eff 3-31-00

Env-Wm 2107.05 Truck Transfer Stations. Waste collection and transfer operations that are carried out by temporarily parking a truck or other motor vehicle at a site where persons then deliver waste from off-site locations, shall be eligible for a permit-by-notification, valid for an individual operating site only, provided that:

- (a) All waste collected by the facility is placed directly into a motor vehicle that:
- (1) Is registered and insured by the permittee for legal use on public roads;

- (2) Bears a current state inspection sticker;
 - (3) Is labeled in accordance with RSA 149-M:10, II;
 - (4) Displays the required permit;
 - (5) Displays a list of authorized and prohibited wastes, consistent with (d) and (e) below;
 - (6) Is equipped with a spill response kit;
 - (7) Is equipped with an emergency communication system; and
 - (8) Fully encloses the collected waste;
- (b) The land owner has granted the permittee permission to so use the land;
- (c) The site is operated one day per week only, during daylight hours only;
- (d) Subject to (e) below, the facility receives mixed municipal solid waste and/or source separated recyclable materials only;
- (e) The facility does not receive:
- (1) Any waste listed in Env-Wm 2904.03;
 - (2) Ash;
 - (3) Liquid waste; or
 - (4) White goods.
- (f) The waste is not stored at the collection site overnight; and
- (g) All other applicable permit-by-notification facility requirements are met, as specified in Env-Wm 2900.

Source. #7225, eff 3-31-00

PART Env-Wm 2108 PERMIT-EXEMPT FACILITIES

Env-Wm 2108.01 Purpose. The purpose of the rules in this part is to identify C/S/T facilities which are permit-exempt, pursuant to Env-Wm 302.03(b)(1).

Source. #6619-B, eff 10-29-97

Env-Wm 2108.02 General Conditions for Exemption.

(a) The C/S/T facilities described in this part shall be exempt from obtaining a permit, subject to the following conditions:

- (1) The facility shall comply with:
 - a. The universal facility requirements in Env-Wm 2700; and
 - b. The waste specific requirements in Env-Wm 2600, as applicable based on the type of waste managed by the facility; and

(2) All waste managed at the facility shall be actively managed.

(b) A permit exemption shall not affect a person's obligation to obtain all requisite federal, state or local permits, licenses or approvals, or to comply with all other applicable federal, state, district or local permits, ordinances, laws or approvals or conditions pertaining to the permit-exempt activities.

Source. #6619-B, eff 10-29-97

Env-Wm 2108.03 Site of Generation C/S/T Facilities. Subject to Env-Wm 2108.02, no permit shall be required to temporarily store a waste at the site of generation pending its transfer to an authorized facility.

Source. #6619-B, eff 10-29-97

Env-Wm 2108.04 C/S/T Facilities for Processed Select Recyclable Materials. Subject to Env-Wm 2108.02, no permit shall be required to collect, store and transfer to markets for the production of certified waste-derived products, processed select recyclable materials.

Source. #6619-B, eff 10-29-97

Env-Wm 2108.05 C/S/T Facilities for Unprocessed Select Recyclable Materials. Subject to Env-Wm 2108.02, no permit shall be required to collect, store and transfer unprocessed select recyclable materials from off-site locations provided that:

- (a) Only source separated recyclable materials shall be collected;
- (b) The recyclable materials shall be collected and stored in containers as specified by (c) below:
- (c) The containers shall be:
 - (1) Covered; and
 - (2) Labeled to identify ownership and authorized use(s);
- (d) No more than 100 cubic yards of recyclable materials shall be stored at the facility; and
- (e) The facility shall be operated by:
 - (1) A person who owns an authorized facility that shall receive the recyclable materials for processing and/or reuse;
 - (2) A commercial waste hauler holding a written agreement from an authorized facility that shall receive the recyclable materials for processing and/or reuse; or
 - (3) A person in responsible charge of a fund drive or similar event sponsored by a community, government or civic non-profit organization.

Source. #6619-B, eff 10-29-97

Env-Wm 2108.06 Waste In-Transit Storage Areas. Subject to Env-Wm 2108.02, no permit shall be required to temporarily store waste while in transit to an authorized facility, provided that:

- (a) The waste shall arrive at the storage facility in covered container(s), to include a waste collection vehicle;
- (b) No waste shall be removed from or added to the container(s) while at the storage facility;
- (c) Not more than 150 cubic yards of waste shall be stored at the storage facility;
- (d) The waste shall be stored no longer than 4 days from date of receipt; and

(e) The waste shall not be stored in a manner or for a time period which has the potential to result in conditions adversely affecting the environment, public health or safety, including conditions that attract insects or vectors, generate odors or leachate, or have the potential to cause fire or explosion.

Source. #6619-B, eff 10-29-97

Env-Wm 2108.07 Roadside Clean-up Staging Areas. Subject to Env-Wm 2108.02, no permit shall be required to temporarily store waste collected from highway rights-of-way pending transfer to an authorized facility provided that:

(a) The facility shall be on property controlled by a state or local highway agency controlling the right-of-way; and

(b) The facility shall be operated by the same state or local highway agency.

Source. #6619-B, eff 10-29-97

CHAPTER Env-Wm 2200 PROCESSING OR TREATMENT FACILITY REQUIREMENTS

Statutory Authority: RSA 149-M:7

PART Env-Wm 2201 APPLICABILITY

Env-Wm 2201.01 Applicability. The rules in this chapter shall apply as specified in Env-Wm 101.02(c) to processing and treatment (P/T) facilities, including:

- (a) Composting facilities also subject to Env-Wm 2300; and
- (b) Incinerators also subject to Env-Wm 2400.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

PART Env-Wm 2202 PERMITTING REQUIREMENTS

Env-Wm 2202.01 Permit Required.

(a) A permit issued pursuant to the solid waste rules shall be required for construction, operation and closure of a P/T facility, unless exempt pursuant to Env-Wm 302.03, Env-Wm 2208, Env-Wm 2308 or Env-Wm 2408.

(b) The type of permit required shall be as specified in Env-Wm 302.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2202.02 Permit Application Requirements. The applicant for a P/T facility permit shall prepare the application in accordance with the following:

- (a) Env-Wm 314 for a standard permit;
- (b) Env-Wm 313 for an emergency permit;
- (c) Env-Wm 312 for a research and development permit; and
- (d) Env-Wm 311 for a permit-by-notification.

Source. #6619-B, eff 10-29-97

PART Env-Wm 2203 SITING REQUIREMENTS

Env-Wm 2203.01 Applicability.

(a) The siting requirements in this part shall apply to all P/T facilities, except:

- (1) Existing permitted facilities;
- (2) Permit-exempt facilities identified in Env-Wm 302.03, Env-Wm 2208, Env-Wm 2308, or Env-Wm 2408;
- (3) Permit-by-notification facilities having an active life of 90 days or less;

(4) Research and development permit facilities as provided by Env-Wm 312.02(b); and

(5) Emergency permit facilities as provided by Env-Wm 313.02(b).

(b) The siting requirements in this part shall apply as the complement of siting requirements in Env-Wm 2703 for all facilities, Env-Wm 2802 for facilities having an active life longer than 90 days, and Env-Wm 2903 for permit-by-notification facilities.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2203.02 Setback Requirements.

(a) A P/T facility shall be sited no less than 50 feet from the footprint of any landfill not yet capped, except a lesser distance shall be permitted if the department determines based on information provided in the permit application and in an approved closure plan for the landfill that the lesser distance shall not prohibit compliance with Env-Wm 2703.01.

(b) A P/T facility shall be sited no less than 50 feet from any property line.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

PART Env-Wm 2204 DESIGN REQUIREMENTS

Env-Wm 2204.01 Applicability.

(a) The design requirements in this part shall apply to all P/T facilities, except:

- (1) Permit-exempt facilities identified in Env-Wm 302.03, Env-Wm 2208, Env-Wm 2308 or Env-Wm 2408;
- (2) Permit-by-notification facilities having an active life of 90 days or less;
- (3) Research and development permit facilities as provided by Env-Wm 312.02(b); and
- (4) Emergency permit facilities as provided by Env-Wm 313.02(b).

(b) The design requirements in this part shall apply as the complement of the design requirements in Env-Wm 2704 for all facilities, Env-Wm 2803 for facilities having an active life longer than 90 days, Env-Wm 2900 for permit-by-notification facilities and, depending on the type of waste managed, Env-Wm 2600.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2204.02 General Design Requirements. A P/T facility shall be designed to operate in conformance with Env-Wm 2205.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2204.03 Design Features and Appurtenances. The design of a P/T facility shall include each of the following features and appurtenances:

(a) The same design features and appurtenances as specified for a C/S/T facility in Env-Wm 2104.03, including storage areas and devices conforming to the requirements in Env-Wm 2104.04 and Env-Wm 2104.05 for all processed or treated waste and related materials stored at the facility;

(b) Design features and appurtenances required to comply with Env-Wm 2300, if facility operations involve composting methods;

(c) Design features and appurtenances required to comply with Env-Wm 2400, if facility operations involve thermal combustion methods;

(d) Design features and appurtenances required to comply with Env-Wm 2508, if facility operations involve landfill reclamation, or other landfilled waste recovery activities; and

(e) Design features and appurtenances required to comply with Env-Wm 2600 as applicable to the type of waste(s) managed at the facility.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2204.04 Handling and Storage Areas for Waste and Materials. Areas used to handle and store each of the following waste groups and materials shall be designed in conformance with the requirements of Env-Wm 2104.04 and Env-Wm 2104.05:

(a) Incoming waste;

(b) Residual and bypass waste resulting from the operation of the facility;

(c) Waste-derived products produced by the facility; and

(d) Materials used by the facility to process or treat waste.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

PART Env-Wm 2205 OPERATING REQUIREMENTS

Env-Wm 2205.01 Applicability.

(a) The operating requirements in this part shall apply to all P/T facilities, except:

(1) Permit-exempt facilities, as identified in Env-Wm 302.03, Env-Wm 2208, Env-Wm 2308 and Env-Wm 2408;

(2) Permit-by-notification facilities having an active life of 90 days or less;

(3) Research and development permit facilities as provided by Env-Wm 312.02(b); and

(4) Emergency permit facilities as provided by Env-Wm 313.02(b).

(b) The operating requirements in this part shall apply as the complement of the operating requirements in Env-Wm 2705 for all facilities, Env-Wm 2805 for facilities with an active life longer than 90

days, Env-Wm 2904 for permit-by-notification facilities and, depending on the type of waste managed, Env-Wm 2600.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2205.02 General Operating Objectives.

(a) Processing or treatment methods shall achieve one or both of the following results:

- (1) Reduce, eliminate or change an undesirable characteristic of a waste and thereby render the waste more suitable for final disposal or further management at permitted facilities; or
- (2) Produce a certified waste-derived product.

(b) Processing and treatment practices, by-products and end-products shall not pose a greater adverse impact to the environment, public health or safety than the impact posed by not changing the characteristics of the waste.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2205.03 Collection and Storage of Incoming Waste.

(a) Incoming waste shall be actively managed.

(b) Incoming waste shall be collected and, pending processing or treatment, shall be stored in conformance with the requirements of Env-Wm 2105.

(c) A waste shall not be stored at a P/T facility without processing or treatment for a period of time which:

- (1) Results in conditions adversely affecting the environment, public health or safety, including conditions that attract insects and vectors, generate odors or leachate, or have the potential to cause fire or explosion; or
- (2) Exceeds the storage life of a waste destined for reuse such that a characteristic of the waste changes in a manner or to a degree that renders the waste non-reusable by the facility.

(d) An incoming waste identified in Env-Wm 2600 shall be collected and stored in accordance with the applicable collection and storage requirements specified in Env-Wm 2600.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2205.04 Management of Bypass and Residual Waste.

(a) Bypass and residual waste shall be stored and transferred in conformance with the requirements of Env-Wm 2105.

(b) Bypass and residual waste shall be managed in accordance with Env-Wm 2805.10.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 2200-4

7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2205.05 Processing and Treatment Requirements.

(a) If the facility processes or treats a waste identified in Env-Wm 2600, the facility shall process or treat the waste in accordance with the applicable requirements in Env-Wm 2600.

(b) If facility operations involve solid waste composting methods, the operating requirements of Env-Wm 2305 shall be met.

(c) If facility operations involve thermal combustion methods, the operating requirements of Env-Wm 2405 shall be met.

(d) If facility operations involve landfill reclamation, the requirements of Env-Wm 2508 shall be met.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2205.06 Management of Processed and Treated Waste.

(a) All processed or treated waste, including waste-derived products, shall be managed in a manner that meets the universal environmental performance requirements in Env-Wm 2702 and all other applicable local, state and federal requirements.

(b) All processed or treated waste shall be stored and transferred in accordance with Env-Wm 2105.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2205.07 Management of Waste-Derived Products.

(a) The waste-derived products produced by a P/T facility shall not be distributed and used except in accordance with certification granted pursuant to Env-Wm 3200.

(b) Quality assurance/ quality control procedures shall be implemented to assure that the quality of all waste-derived products distributed by the facility meet a specification identified in the permit based on certification pursuant to Env-Wm 3200.

(c) A waste-derived product that does not meet a required specification shall be deemed to be an off-specification material, fully subject to regulation by the solid waste rules as a waste.

(d) Off-specification materials shall be managed in the same manner as:

(1) An incoming waste as prescribed by Env-Wm 2205.03, if the waste will be reprocessed or retreated by the facility; or

(2) A residual or bypass waste as prescribed by Env-Wm 2205.04, if the waste will not be reprocessed or retreated by the facility.

(e) When an off-specification material is produced by a P/T facility, the permittee shall:

(1) Determine the likely cause and take appropriate steps to correct and avoid a recurrence of the problem;

(2) If the problem is determined to be operational, make the appropriate processing or treatment adjustments to correct the problem before reprocessing or retreating the off-specification material; and

(3) If the problem is due to characteristics of the waste feedstock that cannot be remedied by operational adjustments, manage the off-specification material and all unprocessed and untreated waste of similar characteristics as bypass waste pursuant to Env-Wm 2205.04.

(f) A P/T facility that produces waste-derived products for land application shall maintain records to identify the locations to which or persons to whom the materials are transferred.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2205.08 Public Benefit. In addition to the provisions for providing a substantial public benefit specified in Env-Wm 2705, the operation of a P/T facility shall be deemed to provide a substantial public benefit when facility operations satisfy the same operating conditions as specified in Env-Wm 2105.04(a) through (c).

Source. #6619-B, eff 10-29-97

PART Env-Wm 2206 CLOSURE REQUIREMENTS

Env-Wm 2206.01 Applicability.

(a) The closure requirements in this part shall apply to all P/T facilities, except:

(1) Permit-exempt facilities identified in Env-Wm 302.03, Env-Wm 2208, Env-Wm 2308 and Env-Wm 2408;

(2) Permit-by-notification facilities having an active life of 90 days or less;

(3) Research and development permit facilities as provided by Env-Wm 312.02(b); and

(4) Emergency permit facilities as provided by Env-Wm 313.02(b).

(b) The closure requirements in this part shall apply as the complement of the closure requirements in Env-Wm 2706 for all facilities, Env-Wm 2806 for facilities having an active life longer than 90 days, Env-Wm 2905 for permit-by-notification facilities and, depending on the type of waste managed, Env-Wm 2600.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2206.02 Removal of Processed Recyclable Materials. To comply with Env-Wm 2706.02(e), all processed recyclable materials shall be removed to an authorized facility and not remain at the closing facility under any claim of a permit exemption pursuant to Env-Wm 302.03.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2206.03 Land Application of Uncertified Waste-Derived Products. If a P/T facility distributes an uncertified waste-derived product, including an off-specification waste-derived product, for land application

in New Hampshire, the facility closure requirements shall include all activities required to properly close the affected land application site(s).

Source. #6619-B, eff 10-29-97

Env-Wm 2206.04 Removal of Residual Waste.

(a) Pursuant to Env-Wm 2706.02(b), all residual waste generated by a P/T facility, whether a solid waste or other, shall be removed from the facility in conformance with applicable law, rules and regulations.

(b) A P/T facility having generated a residual which is a hazardous waste shall comply with all applicable facility closure provisions of the hazardous waste rules, including the hazardous waste generator requirements in Env-Wm 500.

Source. #6619-B, eff 10-29-97

PART Env-Wm 2207 PERMIT-BY-NOTIFICATION FACILITIES

Env-Wm 2207.01 Purpose. The purpose of the rules in this part is to identify P/T facilities eligible for a permit-by-notification pursuant to Env-Wm 311.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2207.02 Infectious Waste Treatment Facilities. A treatment facility for infectious waste shall be eligible for a permit-by-notification, provided that:

- (a) The facility shall comply with Env-Wm 2900;
- (b) The facility shall be located at and owned and operated by a health care facility licensed pursuant to RSA 151;
- (c) The facility shall be a limited service area facility permitted to receive waste from the following sources only:
 - (1) The health care facility itself;
 - (2) Affiliated health care facilities; and
 - (3) Households within the community served by the health care facility;
- (d) The facility shall be located inside a building;
- (e) All wastes shall be managed by the facility in accordance with Env-Wm 2604;
- (f) If the facility is an incinerator, the facility shall further comply with the requirements of Env-Wm 2400;
- (g) The facility shall have assured access to an authorized facility for the transfer of all treated waste and residual waste generated by the facility;
- (h) The facility shall have assured access to an authorized facility to which it shall divert bypass wastes; and

(i) If the facility is an incinerator, the resultant ash residue shall be managed in accordance with Env-Wm 2602.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2207.03 Concrete Processing Facilities. A P/T facility which processes waste concrete shall be eligible for a permit-by-notification, provided that the facility meets each of the following requirements:

- (a) The facility shall comply with Env-Wm 2900;
- (b) The facility shall receive only source-separated concrete not contaminated with substances or materials foreign to new concrete, thus excluding concrete treated with lead based paint, concrete from holding tanks for chemicals, sludge or other waste, and concrete from any other source which, by its nature, might be a potential source of contamination;
- (c) The facility shall produce, by crushing, concrete aggregate materials certified for distribution and use pursuant to Env-Wm 3200;
- (d) All unprocessed waste, processed waste and waste-derived products at the facility shall be actively managed in conformance with Env-Wm 2205, regardless of the duration of facility operations;
- (e) All stockpiles of waste and waste-derived products shall be maintained free of plastic, wood and other foreign debris;
- (f) The facility shall not operate longer than 90 days, unless publicly owned; and
- (g) The facility shall commence operations prior to April 1, 1999.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97; ss by #6894-B, eff 12-1-98

Env-Wm 2207.04 P/T Facilities Producing Certified Waste-Derived Products. A P/T facility that collects and uses a processed non-select recyclable material to produce a waste-derived product certified pursuant to Env-Wm 3200 shall be eligible for a permit-by-notification pursuant to Env-Wm 311, provided that:

- (a) The facility shall comply with Env-Wm 2900;
- (b) The only waste received by the facility shall be the processed non-select recyclable material;
- (c) The facility shall not be a permit-exempt facility pursuant to Env-Wm 302.03 or Env-Wm 2208, specifically including Env-Wm 2208.06 and Env-Wm 2208.07;
- (d) The facility shall identify and describe in the application for permit-by-notification:
 - (1) The type of processed non-select recyclable material to be used;
 - (2) The delivery and receipt specifications for the processed non-select recyclable material;
 - (3) The type of certified waste-derived product produced by the facility from the recyclable material, including the applicable product specifications pursuant to Env-Wm 3200;
 - (4) The process used to produce the certified waste-derived product, including the quality assurance/quality control procedures employed;

(e) The facility shall operate in conformance with Env-Wm 2205, regardless of the duration of facility operations; and

(f) The total quantity of processed non-select recyclable material stored at the facility as feedstock for the production of the certified waste-derived product shall not exceed 5000 cubic yards.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

PART Env-Wm 2208 PERMIT-EXEMPT FACILITIES

Env-Wm 2208.01 Purpose. The purpose of the rules in this part is to identify P/T facilities which are permit-exempt, pursuant to Env-Wm 302.03(b)(2).

Source. #6619-B, eff 10-29-97

Env-Wm 2208.02 General Conditions for Exemption.

(a) The P/T facilities described in this part shall be exempt from obtaining a permit, subject to the following conditions:

(1) The facility shall comply with:

a. The universal facility requirements in Env-Wm 2700; and

b. The waste specific requirements in Env-Wm 2600, as applicable based on the type of waste managed by the facility; and

(2) All waste managed at the facility shall be actively managed.

(b) A permit exemption shall not affect a person's obligation to obtain all requisite federal, state or local permits, licenses or approvals, or to comply with all other applicable federal, state, district or local permits, ordinances, laws or approvals or conditions pertaining to the permit-exempt activities.

Source. #6619-B, eff 10-29-97

Env-Wm 2208.03 Generator P/T Facilities. Subject to Env-Wm 2408.02, no permit shall be required to process or treat a waste at its site of generation provided that:

(a) The waste generator shall own and operate the subject P/T facility;

(b) The subject P/T facility shall not receive or process or treat waste generated at any location other than the property where the facility is located;

(c) The subject P/T facility shall not process or treat waste by combustion methods; and

(d) The facility shall not manage infectious waste, except in accordance with Env-Wm 2208.04.

Source. #6619-B, eff 10-29-97; ss by #6894-B, eff 12-1-98

Env-Wm 2208.04 Infectious Waste Bench Top Facilities. Subject to Env-Wm 2208.02, no permit shall be required to treat infectious waste provided that:

(a) The subject treatment facility shall be located at and owned and operated by a health care facility licensed pursuant to RSA 151;

(b) The subject treatment facility shall be a limited service area facility permitted to receive waste from the following sources only:

(1) The health care facility itself;

(2) Affiliated health care facilities; and

(3) Households within the community served by the health care facility;

(c) The waste treatment equipment shall be limited to a bench-top unit with a through-put rate of less than 30 pounds per hour or, if the unit is an autoclave, the chamber capacity shall be less than one cubic yard;

(d) The facility shall be located inside a building;

(e) All infectious waste shall be managed by the facility in accordance with Env-Wm 2604;

(f) The facility shall have assured access to a permitted waste management facility for the transfer of all treated waste and residual waste to be generated by the facility;

(g) The facility shall have assured access to an authorized facility to which it will divert bypass wastes; and

(h) If the facility is an incinerator, the resultant ash residue shall be managed in accordance with Env-Wm 2602;

Source. #6619-B, eff 10-29-97

Env-Wm 2208.05 Burn Piles. Subject to Env-Wm 2208.02, no solid waste facility permit shall be required to open burn piles of brush, slash and untreated wood provided that:

(a) The subject facility shall only burn brush and slash which measures 5 inches in diameter or less and clean, untreated wood with an end cross-sectional area of 24 square inches or less;

(b) The waste stockpile(s) shall conform to the requirements of Env-Wm 2104.05;

(c) Prior to stockpiling any waste, the following approvals shall be obtained for the site:

(1) A permit to kindle the waste, issued by forest fire warden pursuant to RSA 227-L:17,II; and

(2) Written authorization to operate a brush storage and burn site, issued by the department pursuant to Env-A 1001.04(a)(2); and

(d) The ash residue shall be actively managed in accordance with Env-Wm 2602.

Source. #6619-B, eff 10-29-97; ss by #6894-B, eff 12-1-98

Env-Wm 2208.06 P/T Facilities Using Select Processed Recyclable Materials. Subject to Env-Wm 2208.02, no permit shall be required to collect, store, and use a select processed recyclable material to produce any certified waste-derived product.

Source. #6619-B, eff 10-29-97

Env-Wm 2208.07 P/T Facilities Using Non-Select Processed Recyclable Materials. Subject to Env-Wm 2208.02, no permit shall be required to collect, store, and use a non-select processed recyclable material to produce a certified waste-derived product of a type specified in Env-Wm 3203.04, Env-Wm 3203.05 or Env-Wm 3203.07.

Source. #6619-B, eff 10-29-97

Env-Wm 2208.08 Certified Testing Laboratories. Subject to Env-Wm 2208.02, no permit shall be required to collect, store, and test samples of waste at certified laboratories, provided that:

(a) The sample size is no greater than that which is necessary to successfully complete the required test procedure(s); and

(b) All samples and residual sample materials are disposed in accordance with applicable statutes and rules, including but not necessarily limited to:

(1) RSA 149-M and the solid waste rules, if a solid waste and disposed in New Hampshire; and

(2) RSA 147-A and the hazardous waste rules, if a hazardous waste.

Source. #6894-B, eff 12-1-98

CHAPTER Env-Wm 2300 COMPOSTING FACILITY REQUIREMENTS

Statutory Authority: RSA 149-M:7

PART Env-Wm 2301 APPLICABILITY

Env-Wm 2301.01 Applicability.

(a) The rules in this chapter shall apply as specified in Env-Wm 101.02(c) to processing and treatment (P/T) facilities that produce compost from solid waste, hereinafter referred to as composting facilities.

(b) The requirements in this chapter shall apply as the complement of the P/T requirements in Env-Wm 2200.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

PART Env-Wm 2302 PERMITTING REQUIREMENTS

Env-Wm 2302.01 Permit Required.

(a) A permit issued pursuant to the solid waste rules shall be required for construction, operation and closure of a composting facility, unless exempt pursuant to Env-Wm 302.03 or Env-Wm 2308.

(b) The type of permit required shall be as specified in Env-Wm 302.

(c) If the facility also composts septage or sludge as defined by RSA 485-A:2, the facility shall comply with the permitting requirements in Env-Ws 800, as applicable.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2302.02 Permit Application Requirements. The applicant for a composting facility permit shall prepare the application in accordance with:

- (a) Env-Wm 314 for a standard permit;
- (b) Env-Wm 313 for an emergency permit;
- (c) Env-Wm 312 for a research and development permit; and
- (d) Env-Wm 311 for a permit-by-notification.

Source. #6619-B, eff 10-29-97

PART Env-Wm 2303 SITING REQUIREMENTS

Env-Wm 2303.01 Applicability.

(a) The siting requirements in this part shall apply to all composting facilities, except:

- (1) Existing permitted facilities;
- (2) Permit-exempt facilities identified in Env-Wm 302.03 or Env-Wm 2308;
- (3) Permit-by-notification facilities having an active life of 90 days or less;
- (4) Research and development permit facilities by Env-Wm 312.02(b); and

(5) Emergency permit facilities as provided by Env-Wm 313.02(b).

(b) The siting requirements in this part shall apply as the complement of siting requirements in Env-Wm 2703 for all facilities, Env-Wm 2802 for facilities having an active life longer than 90 days, Env-Wm 2903 for permit-by-notification facilities, Env-Wm 2203 and, for facilities also composting septage or sludge as defined by RSA 485-A:2, Env-Ws 800.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2303.02 Siting Requirements. A composting facility which has the potential to discharge leachate to the ground or generate odors shall comply with the siting standards for landfills, as specified in Env-Wm 2504.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

PART Env-Wm 2304 DESIGN REQUIREMENTS

Env-Wm 2304.01 Applicability.

(a) The design requirements in this part shall apply to all composting facilities, except:

- (1) Permit-exempt facilities identified in Env-Wm 302.03 or Env-Wm 2308;
- (2) Permit-by-notification facilities having an active life of 90 days or less;
- (3) Research and development permit facilities as provided by Env-Wm 312.02(b); and
- (4) Emergency permit facilities as provided by Env-Wm 313.02(b).

(b) The design requirements in this part shall apply as the complement of the design requirements in Env-Wm 2704 for all facilities, Env-Wm 2803 for facilities having an active life longer than 90 days, Env-Wm 2900 for permit-by-notification facilities, Env-Wm 2204 and, for facilities also composting septage or sludge as defined by RSA 485-A:2, Env-Ws 800.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2304.02 General Design Requirements. A composting facility shall be designed to operate in conformance with Env-Wm 2305.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2304.03 Process Design Requirements.

(a) The composting process shall be designed to operate in a manner to meet the pathogen reduction criteria specified in 40 CFR Part 503, such as, but not limited to, one of the following methods:

- (1) Using the windrow composting method, such that:
 - a. The solid waste shall be maintained under aerobic conditions during the compost process;

b. A minimum of 5 turnings shall be required during a period of 15 consecutive days when the temperature of the mixture shall not be less than 55EC (131EF) at 6 to 8 inches below the surface of the pile; and

c. In turning the compost pile, the exterior of the compost pile shall be turned into the interior of the compost pile to assure that all solid waste is exposed to composting conditions;

(2) Using the aerated static pile composting method, the compost pile shall be insulated and a temperature of not less than 55EC (131EF) shall be maintained throughout the compost pile for at least 3 consecutive days; or

(3) Using the enclosed vessel composting method, the mixture shall be maintained at a temperature of not less than 55EC (131EF) throughout the mixture for at least 3 consecutive days.

(b) The composting facility shall have sufficient temperature monitoring to ensure that the pathogen reduction criteria specified in 40 CFR 503 are met, such as the following:

(1) For a windrow or an aerated static pile process, monitoring 6 to 8 inches and 18 to 24 inches below the pile surface;

(2) For an aerated static pile process, monitoring 6 to 8 inches and 18 to 24 inches from the outlet of the aeration pipe; and

(3) For an enclosed vessel system, monitoring 6 to 8 inches and 18 to 24 inches inside the vessel wall and 6 to 8 inches from the aeration piping when operating in the positive aeration mode.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2304.04 Waste Collection, Storage and Processing Area Design Requirements.

(a) Waste collection, storage and processing areas shall be designed in conformance with Env-Wm 2204.

(b) Areas used for windrows and aerated static piles shall conform to the same design requirements as specified for waste stockpiles in Env-Wm 2104.05.

(c) Facility design shall include provisions to limit the production and off-site dispersal of odors.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; amd by #5295, eff 12-24-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

PART Env-Wm 2305 OPERATING REQUIREMENTS

Env-Wm 2305.01 Applicability.

(a) The operating requirements in this part shall apply to all composting facilities, except:

(1) Permit-exempt facilities identified in Env-Wm 302.03 or Env-Wm 2308;

(2) Permit-by-notification facilities having an active life of 90 days or less;

(3) Research and development permit facilities as provided by Env-Wm 312.02(b);

(4) Emergency permit facilities as provided by Env-Wm 313.03(b).

(b) The operating requirements in this part shall apply as the complement of the operating requirements in Env-Wm 2705 for all facilities, Env-Wm 2805 for facilities with an active life longer than 90 days, Env-Wm 2904 for permit-by-notification facilities, Env-Wm 2205 and, for facilities also composting septage or sludge as defined by RSA 485-A:2, Env-Ws 800.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2305.02 General Operating Requirements.

(a) A composting facility shall operate in a manner to meet the pathogen reduction design criteria, as specified in Env-Wm 2304.03(a), and consistently produce either a Class AA or Class A compost as specified by Env-Wm 2305.05.

(b) Temperature shall be monitored as specified in Env-Wm 2304.03(b) and shall be recorded daily.

(c) Operational records, in conformance with Env-Wm 2805.06, shall include:

- (1) The source, description and quantity of all materials received at the facility;
- (2) For facilities producing other than Class AA compost, a sampling log, which shall identify:
 - a. The date and time of sampling;
 - b. The person taking the sample;
 - c. The sampling method and location;
 - d. The lab to which the samples were sent for analysis; and
 - e. The results of the analysis, including quality assurance and quality control provisions;
- (3) A temperature data log, which shall identify:
 - a. The date, time and location of data collection;
 - b. The person collecting the data;
 - c. Calibration data for the temperature device;
 - d. The data collection method; and
 - e. The data;
- (4) Quantity of bypass waste removed prior to composting;
- (5) Quantity of non-compostables and other residual waste removed after composting; and
- (6) Locations to which or persons to whom Class A compost is distributed.

(d) All wastes received by the facility shall be inspected to identify and remove wastes that are not suitable for composting, including:

- (1) Wastes that are not organic in nature; and

(2) Wastes which are prohibited wastes as specified in (e) below and any other waste having the potential to adversely affect the capabilities for producing either a Class AA or Class A compost.

(e) A composting facility shall not receive or compost the following types of waste:

- (1) Asbestos;
- (2) Batteries;
- (3) Explosive or contained gaseous wastes;
- (4) White goods;
- (5) Construction and demolition debris;
- (6) Bulky wastes;
- (7) Recyclable materials other than paper or cardboard products certified for distribution and use as a composting bulking agent pursuant to Env-Wm 3200;
- (8) Household hazardous waste and hazardous waste;
- (9) Liquid wastes;
- (10) Infectious waste or treated infectious waste;
- (11) Animal carcasses or deceased persons;
- (12) Contaminated soils or absorbent media;
- (13) Radioactive materials as defined and regulated by the New Hampshire rules for the control of radiation, He-P 2000 and He-P 4000; and
- (14) Sludge or septage as defined by RSA 485-A:2, except in accordance with a permit issued pursuant to RSA 485-A, as applicable.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; amd by #5295, eff 12-24-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2305.03 Product Quality Assurance/Quality Control Requirements. The following requirements shall apply to facilities producing other than a Class AA compost, except for small food waste composting facilities permitted pursuant to Env-Wm 2307.02 which compost sludge in compliance with Env-Wm 800:

(a) Sampling and analysis of the compost shall be performed in accordance with a quality assurance/quality control plan (QA/QC plan) which:

- (1) Conforms to the minimum requirements specified by (b) below;
- (2) Assures all compost distributed by the facility meets the standards set forth in Env-Wm 2305.05; and
- (3) Is approved by the department as a condition of the permit.

(b) Except as provided by (c) below, sampling and analysis shall occur no less frequently than specified in Table 2300-I:

Table 2300-I

Sampling and Analysis of Compost		
	ANALYSES	
Average Compost Produced (Dry Tons/Day)	Total Solids; Total Volatile Solids; Total Kjeldahl Nitrogen, Ammonia, Nitrate & Nitrite; Total Phosphorous; Total Potassium; pH; Heavy Metals (Cadmium, Total Chromium, Copper, Lead, Mercury, Nickel Zinc)	Total Polychlorinated Biphenyls
Less than 1	Semiannually, with 6 grab samples composited monthly	Annually, with 12 grab samples composited monthly
1 to 10	Monthly, with 4 grab samples composited weekly	Semiannually, with 6 grab samples composited monthly
More than 10	Weekly, with 5 grab samples composited daily	Semiannually, with 6 grab samples composited monthly

(c) By obtaining a type I-B permit modification pursuant to Env-Wm 315, the permittee may reduce the sampling and analysis frequency in (b) above to the frequencies specified in 40 CFR 503 after 3 years of meeting the quality criteria specified in Env-Wm 2305.05;

(d) The results of laboratory analyses shall be reported to the department in accordance with Env-Wm 303 on a quarterly basis for those facilities that produce at least one dry ton of compost per day and on a semi-annual basis for those facilities that produce less than one dry ton of compost per day;

(e) Reporting of the analyses shall include copies of the laboratory reports, with all results reported on a dry weight basis except pH, total solids and total volatile solids, and a narrative of the findings, trends and results;

(f) Analysis of nitrogen series, including total kjeldahl nitrogen, (TKN), ammonia (NH₃), nitrite (NO₂), and nitrate (NO₃), shall be performed on either fresh grab samples or grab samples that are immediately frozen and remain frozen throughout the pre-analysis storage period;

(g) Additional analyses for salts or other pollutants shall be required for the compost if, during the permit application process, the proposed operating procedures and waste through-put characterization indicate that salt or other pollutants are likely to be present in the compost; and

(h) If the compost is produced using septage or sludge, the pathogen testing requirements in 40 CFR 503.32 shall apply;

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2305.04 Compost Classes.

(a) Class AA compost shall be compost meeting the definition in Env-Wm 102.32.

(b) Class A compost shall be compost meeting the criteria specified in Env-Wm 2305.05.

(c) All other compost shall be designated "off-spec compost."

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; amd by #5295, eff 12-24-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2305.05 Class A Compost. Compost shall be designated as Class A compost if it meets the following criteria:

- (a) The finished compost shall be sufficiently stable that it shall not reheat upon standing to greater than 20EC above ambient temperature;
- (b) The concentration of heavy metals in the finished compost shall not exceed the ceiling concentrations provided in Env-Ws 800 for sludge and sludge mixtures, determined on the basis of representative samples using EPA test procedures in EPA manual SW 846;
- (c) The finished compost shall contain less than one ppm dry weight total polychlorinated biphenyls (PCB);
- (d) The finished compost shall not exceed 10 millimeters (0.39 inch) particle size;
- (e) The finished compost shall be produced from a composting process which:
 - (1) Has a minimum retention time, including active composting and curing, of 90 days; or
 - (2) Achieves 60 percent reduction in organic matter;
- (f) The finished compost shall contain no glass, metal or plastic of size and/or shape that could cause injury;
- (g) The finished compost shall contain no more than 2% non-organic and non-mineral material not including sand and other inorganic soils, by weight; and
- (h) If the finished compost is produced using sludge or septage, the Class A pathogen reduction requirements in 40 CFR 503.32(a) shall apply.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; amd by #5295, eff 12-24-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2305.06 Uses, Class AA Compost. Pursuant to Env-Wm 3203.10(a), Class AA compost shall be certified for distribution and use as compost to be applied to land, without restriction.

Source. #6619-B, eff 10-29-97

Env-Wm 2305.07 Uses, Class A Compost. Pursuant to Env-Wm 3203.10(b) and (c), Class A compost shall be certified for distribution and use as compost to be applied to land, except where crops are grown for direct human consumption. However, Class A compost may be used on land where food chain crops are grown, such as crops that are fed to livestock but not consumed directly by humans.

Source. #6619-B, eff 10-29-97

Env-Wm 2305.08 Uses, Off-Specification Compost.

- (a) Except as provided in (b) below, compost which is not Class AA or Class A shall be:
 - (1) Managed as residual waste in accordance with the facility's residuals management plan; and
 - (2) Not certified in accordance with Env-Wm 3200 for distribution and use as compost to be applied to land.
- (b) Compost that meets all of the standards of a Class A compost, except that its particle size exceeds 10 millimeters (0.39 inch) shall be certified for distribution and use as compost in landfill cover systems, pursuant to Env-Wm 3200.

Source. #6619-B, eff 10-29-97

Env-Wm 2305.09 Compost Identification.

(a) Prior to distribution, all Class A compost shall be clearly marked to:

- (1) Show its classification; and
- (2) Identify the following:
 - a. Type of waste from which it was derived;
 - b. Use restrictions;
 - c. Recommended safe uses;
 - d. Application rates; and
 - e. Maximum allowable contaminant levels as provided in Env-Wm 2305.05 and average contaminant concentrations to date.

(b) The requirements in (a) above shall apply to both compost distributed in bulk and in bag form.

Source. #6619-B, eff 10-29-97

Env-Wm 2305.10 Out-of-State Compost.

(a) Compost produced out-of-state which does not meet the criteria for Class AA or Class A compost or which is produced by a facility that has not complied with the regulatory requirements of the state in which it is located, shall not be certified for distribution and use pursuant to Env-Wm 3200 and therefore shall be deemed a solid waste upon entering New Hampshire and shall be managed as such.

(b) Any compost marketed in New Hampshire that is not marked in accordance with Env-Wm 2305.09 shall be deemed to be a solid waste regardless of its state of origin and shall be managed as such.

Source. #6619-B, eff 10-29-97

PART Env-Wm 2306 CLOSURE REQUIREMENTS

Env-Wm 2306.01 Applicability.

(a) The closure requirements in this part shall apply to all composting facilities, except:

- (1) Permit-exempt facilities identified in Env-Wm 302.03 and Env-Wm 2308;
- (2) Permit-by-notification facilities having an active life of 90 days or less;
- (3) Research and development permit facilities as provided by Env-Wm 312.02(b); and
- (4) Emergency permit facilities as provided by Env-Wm 313.02(b).

(b) The closure requirements in this part shall apply as the complement of the closure requirements in Env-Wm 2706 for all facilities, Env-Wm 2806 for facilities having an active life longer than 90 days, Env-Wm 2905 for permit-by-notification facilities, Env-Wm 2206 and, for facilities also composting septage or sludge as defined by RSA 485-A:2, Env-Ws 800.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-

B, eff 10-29-97

Env-Wm 2306.02 Closure Requirements.

(a) To comply with Env-Wm 2706.02(e), all finished compost which is certified for distribution and use shall be removed to places where it shall be used accordingly or removed to an authorized facility.

(b) To comply with Env-Wm 2706.02(b), all unfinished compost shall be removed to an authorized facility to be finished or disposed.

(c) To comply with Env-Wm 2706.02(e), no waste or compost shall remain at the site following closure under a claim of permit exemption pursuant to Env-Wm 302.03.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

PART Env-Wm 2307 PERMIT-BY-NOTIFICATION FACILITIES

Env-Wm 2307.01 Purpose. The purpose of the rules in this part is to identify composting facilities eligible for a permit-by-notification pursuant to Env-Wm 311.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; amd by #5295, eff 12-24-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2307.02 Small Food Waste Composting Facilities. A facility which composts food waste shall be eligible for a permit-by-notification pursuant to Env-Wm 311, provided that the facility meets each of the following requirements:

- (a) The facility shall comply with the requirements of Env-Wm 2900;
- (b) The facility shall restrict its operations to composting one or more of the food wastes specified in (e) below, mixed with yard waste, animal manure, farming crop residuals, sludge as defined in RSA 485-A:2,XI-a and/or an approved bulking agent;
- (c) If the facility composts sludge, it shall hold a valid permit issued pursuant to Env-Ws 800;
- (d) The food waste portion of the compost mixture described in (b) above shall be no more than 20% of the entire mixture by volume;
- (e) The facility shall receive and compost the following types of food waste only:
 - (1) Vegetable matter, including produce, and bakery wastes generated by retail food sales outlets;
 - (2) Food preparation waste from commercial and institutional kitchens that is limited to vegetable matter, edible vegetable oils, and bakery wastes; and
 - (3) Vegetable wastes generated as byproducts of food processing operations, including canning and freezing;
- (f) The facility shall not receive or compost:
 - (1) Dairy products and their derivatives;
 - (2) Meat;
 - (3) Meat byproducts; and

- (4) Non-food matter other than the non-food wastes allowed pursuant to (b) above, for instance:
 - a. Plastic and paper bags;
 - b. Plastic and paper wrappings;
 - c. Plastic and paper ties; and
 - d. String;
- (g) No food waste shall be left uncovered at the facility for more than 2 hours;
- (h) Food waste not incorporated into working compost shall be stored at the facility:
 - (1) No longer than 24 hours from receipt; and
 - (2) In a closed container controlling the dispersal of odors and preventing the attraction of birds, insects, rodents and other vectors;
- (i) Access to windrows by compost turning equipment shall be maintained on a year round basis, including during periods of snowmelt, spring thaw, and high precipitation.
- (j) Supplies of water and pumping capabilities shall be available at the facility and used to keep the compost moist.
- (k) If manure is a primary constituent of the compost, sufficient quantities of an approved bulking agent shall be incorporated at all times to:
 - (1) Assure that the compost shall not become waterlogged; and
 - (2) Prevent the development of anaerobic conditions in the compost;
- (l) Compost windrows shall be turned sufficiently often to maintain aerobic conditions at all times throughout each windrow;
- (m) Prior to distribution and use, the compost shall be matured and stabilized to a condition which shall not cause it to re-heat when piled;
- (n) Prior to distribution and use, the finished compost shall be determined and certified by the permittee to meet the specifications of:
 - (1) Class AA compost, if no sludge has been incorporated and the compost otherwise meets the definition of a Class A compost as provided by Env-Wm 102.32; or
 - (2) Class A compost, if sludge has been incorporated and, based on the testing results obtained pursuant to a permit issued for the facility pursuant to RSA 485-A and Env-Ws 800, the compost meets Class A standards.
- (o) Following the cessation of facility operations or any other trigger event for closure as provided in Env-Wm 2706, the permittee shall close the facility in accordance with Env-Wm 2706 and Env-Wm 2306 and Env-Ws 800, as applicable.
- (p) Following closure, the permittee shall certify to the department in writing that the facility has been closed as required in (o) above, specifically including certification that the following conditions are met:
 - (1) All waste, including bypass and residual waste and unfinished compost, has been removed from the facility to an authorized facility for disposal or further management;

- (2) All finished compost has been removed from the facility to locations that use or distribute the finished compost or disposed at an authorized facility; and
- (3) The site has been cleaned pursuant to Env-Wm 2706.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; amd by #5295, eff 12-24-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

PART Env-Wm 2308 PERMIT-EXEMPT FACILITIES

Env-Wm 2308.01 Purpose. The purpose of the rules in this part is to identify composting facilities which are permit-exempt, pursuant to Env-Wm 302.03(b)(2).

Source. #6619-B, eff 10-29-97

Env-Wm 2308.02 General Conditions for Exemption.

(a) The composting facilities described in this part shall be exempt from obtaining a permit, subject to the following conditions:

- (1) The facility shall comply with the universal facility requirements in Env-Wm 2700; and
- (2) All waste managed at the facility shall be actively managed.

(b) A permit exemption shall not affect a person's obligation to obtain all requisite federal, state or local permits, licenses or approvals, or to comply with all other applicable federal, state, district or local permits, ordinances, laws or approvals or conditions pertaining to the permit-exempt activities.

Source. #6619-B, eff 10-29-97

Env-Wm 2308.03 Generator Composting Facilities.

(a) Subject to Env-Wm 2308.02, no permit shall be required to compost the following wastes and materials at the waste generation site:

- (1) Yard waste and/or farming crop residuals;
- (2) Food waste limited to vegetable matter, edible vegetable oils and bakery waste;
- (3) Animal manure; and/or
- (4) An approved bulking agent.

(b) The facilities described in (a) above shall include:

- (1) Composting operations at a private home for food waste generated by the home kitchen;
- (2) Composting operations at schools and other institutions, for food waste generated by cafeteria(s) at the institution; and
- (3) Farm based composting operations for food waste generated by the farm and farming crop residuals.

Source. #6619-B, eff 10-29-97

CHAPTER Env-Wm 2400 INCINERATION FACILITY REQUIREMENTS

Statutory Authority: RSA 149-M:7

PART Env-Wm 2401 APPLICABILITY

Env-Wm 2401.01 Applicability.

(a) The rules in this chapter shall apply as specified in Env-Wm 101.02(c) to processing and treatment (P/T) facilities that incinerate solid waste, including waste derived fuel not certified for distribution and use as fuel pursuant to Env-Wm 3200.

(b) The requirements in this chapter shall apply as the complement of the P/T facility requirements in Env-Wm 2200.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

PART Env-Wm 2402 INCINERATOR PERMIT APPLICATION REQUIREMENTS

Env-Wm 2402.01 Permit Required.

(a) A permit issued pursuant to the solid waste rules shall be required for construction, operation and closure of an incinerator, unless exempt pursuant to Env-Wm 302.03 or Env-Wm 2408.

(b) The type of permit required shall be as specified in Env-Wm 302.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; amd by #5297, eff 12-24-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2402.02 Permit Application Requirements. Incinerator permit applications shall conform to the permit application requirements in:

- (a) Env-Wm 314 for a standard permit;
- (b) Env-Wm 313 for an emergency permit;
- (c) Env-Wm 312 for a research and development permit; and
- (d) Env-Wm 311 for a permit-by-notification.

Source. #6619-B, eff 10-29-97

PART Env-Wm 2403 SITING REQUIREMENTS

Env-Wm 2403.01 Siting Requirements. Incinerators shall be sited in conformance with Env-Wm 2703, Env-Wm 2802, Env-Wm 2903 and Env-Wm 2203, as applicable.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

PART Env-Wm 2404 DESIGN REQUIREMENTS

Env-Wm 2404.01 Applicability.

(a) The design requirements in this part shall apply to all incinerators, except:

- (1) Permit-exempt incinerators identified in Env-Wm 302.03 or Env-Wm 2408;
- (2) Permit-by-notification incinerators having an active life of 90 days or less;
- (3) Research and development incinerators as provided by Env-Wm 312.02(b); and
- (4) Emergency permit incinerators as provided by Env-Wm 313.02(b).

(b) The design requirements in this part shall apply as the complement of the design requirements in Env-Wm 2704 for all facilities, Env-Wm 2803 for facilities having an active life longer than 90 days, Env-Wm 2900 for permit-by-notification facilities, Env-Wm 2204 and, depending on the type of waste managed, Env-Wm 2600.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2404.02 General Design Requirements. An incinerator shall be designed to operate in conformance with Env-Wm 2405.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2404.03 Combustion Unit. The design of the combustion unit shall comply with state rules and federal regulations for controlling air pollution, including RSA 125-C.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

PART Env-Wm 2405 OPERATING REQUIREMENTS

Env-Wm 2405.01 Applicability.

(a) The operating requirements in this part shall apply to all incinerators, except:

- (1) Permit-exempt incinerators identified in Env-Wm 302.03 or Env-Wm 2408;
- (2) Permit-by-notification incinerators, having an active life of 90 days or less;
- (3) Research and development permit incinerators, as provided by Env-Wm 313.02(b); and
- (4) Emergency permit incinerators, as provided by Env-Wm 313.02(b).

(b) The operating requirements in this part shall apply as the complement of the operating requirements in Env-Wm 2705 for all facilities, Env-Wm 2805 for facilities having an active life longer than 90 days, Env-Wm 2904 for permit-by-notification facilities, Env-Wm 2205 and, depending on the type of waste managed, Env-Wm 2600.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2405.02 General Operating Requirements. The operation of an incinerator shall comply with state rules and federal regulations for controlling air pollution, including RSA 125-C.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2405.03 Additional Signs and Postings.

(a) The permittee shall post signs, at a conspicuous place or places adjacent to the incinerator, stating the following information based on the provisions of the facility permit:

- (1) Authorized wastes;
- (2) Prohibited wastes;
- (3) Ash residue and waste storage limitations; and
- (4) Instructions for ash residue storage and disposal.

(b) Emergency procedures, including the telephone number for emergency assistance, shall be posted at a conspicuous place or places adjacent to the incinerator.

(c) A copy of the operating instructions manual for the combustion unit shall be maintained in close proximity to the incinerator so as to be readily available for reference.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2405.04 Combustion Requirements. An incinerator shall combust waste in a manner and to a degree that results in an ash residue that contains little to no combustible materials.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2405.05 Ash Residue Management. Ash residue shall be managed in accordance with Env-Wm 2602.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

PART Env-Wm 2406 CLOSURE REQUIREMENTS

Env-Wm 2406.01 Closure Requirements. Incinerators shall be closed in accordance with:

- (a) Env-Wm 2706;
- (b) Env-Wm 2806;

(c) Env-Wm 2206; and

(d) Env-Wm 2600, as applicable based on type of waste.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

PART Env-Wm 2407 PERMIT-BY-NOTIFICATION INCINERATORS

Env-Wm 2407.01 Purpose. The purpose of the rules in this part is to identify incinerators eligible for a permit-by-notification pursuant to Env-Wm 311.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2407.02 Infectious Waste Incinerator. An infectious waste incinerator that meets the requirements in Env-Wm 2207.02 shall be eligible for a permit-by-notification.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

PART Env-Wm 2408 PERMIT-EXEMPT INCINERATORS

Env-Wm 2408.01 Purpose. The purpose of the rules in this part is to identify incinerators which are permit-exempt, pursuant to Env-Wm 302.03(b)(2).

Source. #6619-B, eff 10-29-97

Env-Wm 2408.02 General Conditions for Exemption.

(a) The incinerators described in this part shall be exempt from obtaining a permit, subject to the following conditions:

(1) The facility shall comply with:

a. The universal facility requirements in Env-Wm 2700; and

b. The waste specific requirements in Env-Wm 2600, as applicable based on the type of waste managed by the facility; and

(2) All waste managed at the facility shall be actively managed.

(b) A permit exemption shall not affect a person's obligation to obtain all requisite federal, state or local permits, licenses or approvals, or to comply with all other applicable federal, state, district or local permits, ordinances, laws or approvals or conditions pertaining to the permit-exempt activities.

Source. #6619-B, eff 10-29-97

Env-Wm 2408.03 Animal Crematoriums. Subject to Env-Wm 2408.02, no permit shall be required for an animal crematorium, provided that:

(a) The facility shall be used only for the incineration of animal carcasses not classified as infectious waste under Env-Wm 2604.01(a)(5);

- (b) The combustion unit(s) shall have an operational capacity of less than 200 pounds per hour; and
- (c) The facility shall not incinerate more than 1,000 pounds per week.

Source. #6619-B, eff 10-29-97

CHAPTER Env-Wm 2500 LANDFILL REQUIREMENTS

Statutory Authority: RSA 149-M:7

PART Env-Wm 2501 APPLICABILITY

Env-Wm 2501.01 Applicability. The rules in this chapter shall apply, as specified in Env-Wm 101.02(c), to landfills.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

PART Env-Wm 2502 PERMITTING REQUIREMENTS

Env-Wm 2502.01 Permit Required.

(a) A permit issued pursuant to the solid waste rules shall be required for construction, operation and closure of a landfill, unless exempt pursuant to Env-Wm 302.

(b) The type of permit required shall be as specified in Env-Wm 302.

Source. (See Revision note at PART Heading Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2502.02 Permit Application Requirements. The applicant for a landfill permit shall prepare the application in accordance with:

(a) Env-Wm 314 for a standard permit;

(b) Env-Wm 313 for an emergency permit;

(c) Env-Wm 312 for a research and development permit; and

(d) Env-Wm 311 for a permit-by-notification.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

PART Env-Wm 2503 FEDERAL REQUIREMENTS FOR MSW LANDFILLS

Env-Wm 2503.01 Purpose. The purpose of the rules in this part is to identify facilities subject to the federal requirements for municipal solid waste landfills (MSWLFs) in 40 CFR 258.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2503.02 Applicability.

(a) The rules in Env-Wm 2503.03 shall identify the circumstances under which a MSWLF shall be subject to the requirements in 40 CFR 258.

(b) The rules in Env-Wm 2503.04 shall identify the criteria in 40 CFR 258 and the solid waste rules which apply to MSWLFs which are subject to 40 CFR 258.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6372, eff 11-16-96; ss by #6619-B, eff 10-29-97

Env-Wm 2503.03 Applicability of Federal Law. In order to determine whether a municipal solid waste landfill (MSWLF) is subject to the requirements of 40 CFR 258, the following provisions and definitions from 40 CFR 258.1 and 40 CFR 258.2 shall apply:

(a) MSWLFs that stopped receiving waste on or before October 9, 1991 shall be exempt from the requirements of 40 CFR 258;

(b) MSWLFs that received 100 tons per day of waste or less after October 9, 1991 and stopped receiving waste prior to April 9, 1994 shall be exempt from the requirements of 40 CFR 258 except for the final cover requirements specified in 40 CFR 258.60(a) provided the final cover was fully installed by October 9, 1994. If the final cover was not fully installed by October 9, 1994, the MSWLFs shall be subject to all requirements of 40 CFR 258;

(c) MSWLFs that received 100 tons per day of waste or less on or after April 9, 1994 shall be subject to all requirements of 40 CFR 258;

(d) MSWLFs that received greater than 100 tons per day of waste after October 9, 1991 and stopped receiving waste prior to October 9, 1993 shall be exempt from the requirements of 40 CFR 258 except for the final cover requirements specified in 40 CFR 258.60(a) provided the final cover was fully installed by October 9, 1994. If the final cover was not fully installed by October 9, 1994, the MSWLFs shall be subject to all requirements of 40 CFR 258;

(e) MSWLFs that received greater than 100 tons per day of waste on or after October 9, 1993 shall be subject to all requirements of 40 CFR 258; and

(f) In determining the scope and applicability of the federal requirements, the definitions specified in 40 CFR 258.2 for the following terms shall be used:

- (1) Active life;
- (2) Active portion;
- (3) Director;
- (4) Household waste;
- (5) Industrial solid waste;
- (6) Owner;
- (7) Saturated zone;
- (8) Sludge;
- (9) Solid waste;
- (10) State;
- (11) State director; and
- (12) Waste management unit boundary.

Source. #6372, eff 11-16-96; ss by #6619-B, eff 10-29-97

Env-Wm 2503.04 Standards Specific to MSWLFs Subject to 40 CFR 258.

(a) Any municipal solid waste landfill (MSWLFs) that is identified by Env-Wm 2503.03 as being subject to 40 CFR 258 shall comply with the following provisions of 40 CFR 258 in addition to the requirements in Env-Wm 2600, Env-Wm 2700, Env-Wm 2800, Env-Wm 3100, Env-Wm 3300 and this chapter:

- (1) Location restrictions specified in 40 CFR 258.10 through 258.16;
- (2) Operating criteria specified in 40 CFR 258.20, 258.21, 258.23, 258.24, 258.28 and 258.29;
- (3) Design criteria specified in 40 CFR 258.40;
- (4) Groundwater monitoring and corrective action requirements specified in 40 CFR 258.53 through 258.58;
- (5) Closure and post-closure requirements specified in 40 CFR 258.60(i) and 258.61; and
- (6) Financial assurance mechanisms specified in 40 CFR 258, subpart G.

(b) The provisions specified in (a)(1) through (a)(6) above shall not be waived under Env-Wm 202.

Source. #6372, eff 11-16-96; ss by #6619-B, eff 10-29-97

PART Env-Wm 2504 SITING REQUIREMENTS

Env-Wm 2504.01 Applicability.

(a) The siting requirements in this part shall apply to all landfills except:

- (1) Existing permitted facilities and existing facilities scheduled to close;
- (2) Permit-exempt facilities identified in Env-Wm 302.03 or Env-Wm 2510;
- (3) Permit-by-notification facilities having an active life of 90 days or less;
- (4) Research and development permit facilities, as provided by Env-Wm 312.02(b); and
- (5) Emergency permit facilities, as provided by Env-Wm 313.02(b).

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97; ss by #6894-B, eff 12-1-98

Env-Wm 2504.02 Groundwater Protection Standards.

(a) A landfill shall not be sited within the well head protection area of a community or non-community, non-transient water supply well system as delineated in the department's source water protection area inventory.

(b) A landfill and all associated leachate storage units shall be located only in areas where groundwater monitoring for release detection, characterization and remediation can be conducted prior to a release having an adverse affect on a water supply.

(c) Identification of the areas cited in (b) above shall be based upon a hydrogeologic investigation which provides all site specific information required to model the pre-construction and post-construction groundwater and surface water regimen.

(d) The base of the bottom liner system, or the base of the facility if unlined, shall be a minimum of 6 feet above the seasonal high groundwater table and the confirmed bedrock surface.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2504.03 Surface Water Protection Standards.

(a) The location of a landfill relative to surface water resources shall comply with the requirements of RSA 485-A.

(b) A landfill and all associated leachate storage units shall be located only in areas where potential adverse effects to surface water quality, due to erosion, sedimentation, siltation, flood, or discharge of contaminants, can be prevented or minimized and mitigated by facility design.

(c) Identification of the areas cited in (b) above shall be based on a thorough hydrogeological investigation to demonstrate the following:

(1) Compliance with Env-Wm 2504.02;

(2) That engineering design measures can be incorporated to control erosion, sedimentation and siltation; and

(3) The potential release of contaminants to surface waters can be prevented, attenuated or otherwise remediated.

(d) The footprint of a landfill shall not be located within 200 feet of any perennial surface water body, measured from the closest bank of a stream and closest shore of a lake, as applicable.

(e) The footprint of a landfill shall not be located within 200 feet upgradient and 100 feet downgradient of a wetland within the jurisdiction of RSA 482-A, excluding any drainage appurtenances related to the site, that is not allowed to be filled under the authority of RSA 482-A.

(f) The footprint of a landfill shall not be located within 1,000 feet upgradient of a surface water reservoir or intake used for a community drinking water supply.

(g) The footprint of a landfill shall not be located within the 100-year flood hazard zone.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2504.04 Set-back Requirements.

(a) There shall be a minimum 100-foot buffer strip between the property line and the footprint of the landfill.

(b) There shall be a minimum 300-foot buffer between the footprint of the landfill and Class I and Class II roads and a minimum 100-foot buffer between the footprint of the landfill and Class III through Class VI roads.

(c) There shall be a minimum distance of 500 feet maintained between the footprint of the landfill and all existing residences not owned by the applicant.

(d) The footprint of a landfill receiving putrescible wastes shall not be located within 10,000 feet of any airport runway used by turbojet aircraft or 5,000 feet of any airport runway used by only piston-type aircraft.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2504.05 Geologic Siting Limitations.

(a) The footprint of a landfill and associated leachate storage units shall be a minimum of 200 feet from faults that have had displacement in Holocene time, meaning from Pleistocene to present or within the last 11,000 years.

(b) No landfill footprint or associated leachate storage units shall overlie an area underlain by karstified dolomite or limestone or an area susceptible to mass movements of earth material such as landslides, rockfalls, mudslides, slumps, earth flows, or subsidence.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2504.06 Other Siting Limitations. A new landfill shall be sited only on property which is owned by the permittee.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

PART Env-Wm 2505 DESIGN AND CONSTRUCTION REQUIREMENTS

Env-Wm 2505.01 Applicability.

(a) The design requirements in this part shall apply to all landfills, except:

- (1) Portions of existing permitted facilities which are constructed or approved for construction as of October 29, 1997;
- (2) Permit-exempt facilities identified in Env-Wm 302.03 or Env-Wm 2510;
- (3) Permit-by-notification facilities having an active life of 90 days or less;
- (4) Research and development permit facilities, as provided by Env-Wm 312.02(b); and
- (5) Emergency permit facilities, as provided by Env-Wm 313.02(b).

(b) The design requirements in this part shall apply as the complement of the design requirements in Env-Wm 2704 for all facilities, Env-Wm 2803 for facilities having an active life longer the 90 days, Env-Wm 2900 for permit-by-notification facilities and, depending on the type of waste managed, Env-Wm 2600.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2505.02 General Landfill Design Requirements.

(a) A lined landfill shall incorporate the following design features:

- (1) A foundation pursuant to Env-Wm 2505.03;
- (2) A liner system pursuant to Env-Wm 2505.05;
- (3) A leak detection and location system pursuant to Env-Wm 2505.07;

- (4) A groundwater and surface water monitoring system, if required pursuant to RSA 485-A and Env-Ws 410;
 - (5) A stormwater management system pursuant to Env-Wm 2505.09;
 - (6) A decomposition gas control system pursuant to Env-Wm 2506.07;
 - (7) A final capping system pursuant to Env-Wm 2505.10; and
 - (8) Facility structures as necessary to house, maintain and repair equipment and supplies, and to accommodate the needs of facility personnel relative to shelter, sanitation and communication.
- (b) An unlined landfill shall incorporate the following design features:
- (1) A groundwater and surface water monitoring system, if required by RSA 485-A;
 - (2) A stormwater management system pursuant to Env-Wm 2505.09;
 - (3) A final capping system pursuant to Env-Wm 2505.10; and
 - (4) Facility structures as necessary to house, maintain and repair equipment and supplies, and to accommodate the needs of facility personnel relative to shelter, sanitation and communication.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2505.03 Landfill Subgrade and Base Grade Standards.

- (a) The landfill subgrade shall be graded and prepared for landfill construction.
- (b) Subgrade materials shall have a saturated hydraulic conductivity of 1×10^{-4} cm/sec or less.
- (c) The subgrade shall have sufficient structural integrity to support the facility under all anticipated loading conditions during all phases of construction, operation and closure.
- (d) Engineering measures shall be incorporated in the design when necessary to ensure stability of the landfill during all phases of construction, operation and closure.
- (e) A stability analysis shall be submitted with the application to demonstrate compliance with requirements in (c) above and to support the facility design, including measures incorporated pursuant to (d) above, if any.
- (f) For geomembrane lined facilities, the subgrade below the liner shall:
 - (1) Be prepared to a depth which provides a uniform and consistent bedding layer which shall be stable under loading;
 - (2) Contain no stones greater than one inch in diameter, and no sharp or angular materials; and
 - (3) Be compacted to 95% optimum density as determined by ASTM D698 (Standard Proctor) or ASTM D1557 (Modified Proctor).
- (g) Facility base grades shall be sloped to facilitate compliance with Env-Wm 2505.06 and Env-Wm 2506.05.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2505.04 Liner Material and Construction Requirements.

(a) Soil liners shall meet or exceed the following specifications:

- (1) The liner shall be constructed of no less than 3 feet of a recompacted natural soil with uniform and consistent characteristics, or a uniform and consistent natural soil blended with an admixture, such as bentonite;
- (2) Recomposition shall occur in lifts not to exceed the depth demonstrated in a test pad necessary to achieve a saturated hydraulic conductivity no greater than 1×10^{-7} cm/sec;
- (3) The recompacted lifts shall be constructed in a step-wise manner to limit the potential for vertical channeling;
- (4) Recomposed saturated hydraulic conductivity shall equal 1×10^{-7} cm/sec or less; and
- (5) The liner shall be protected from damage due to frost, desiccation and differential movement.

(b) Geomembrane liners shall meet or exceed the following specifications:

- (1) The liner material shall have a minimum thickness of 60 mils;
- (2) The liner material shall be chemically compatible with anticipated waste and leachate characteristics; and
- (3) Seaming methods which involve the use of solvents shall incorporate quality assurance/quality control procedures pursuant to Env-Wm 2505.16 to assure protection of groundwater and surface water resources.

(c) Composite liners shall consist of:

- (1) A geomembrane liner, as specified by (b) above; and
- (2) A soil component as specified by (a) above or a manufactured geosynthetic clay liner.

(d) All liners shall be constructed in accordance with a quality assurance/quality control plan established pursuant to Env-Wm 2505.16.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2505.05 Liner System Design Standards.

(a) A liner system shall be comprised of the following components:

- (1) A liner which meets the requirements of Env-Wm 2505.04;
- (2) A leachate collection and removal system which meets the requirements of Env-Wm 2505.06; and
- (3) A leak detection and location system, if required by Env-Wm 2505.07.

(b) A landfill shall incorporate one or more liner systems, as specified in Env-Wm 2505.12 through Env-Wm 2505.15, based on the type of wastes to be received by the facility.

(c) Multi-liner systems shall be designed to place one liner system over another liner system.

(d) A single-lined facility shall incorporate one liner system as specified in Env-Wm 2505.05(a).

(e) A double-lined facility shall incorporate 2 liner systems as specified in Env-Wm 2505.05(a), separated by drainage material as specified in (f) below.

(f) Except as provided by (g) below, each liner within a liner system shall be covered in the base area by an overlying layer of select granular soil materials 12 inches in depth or more as required to:

(1) Sustain anticipated loading conditions;

(2) Protect the underlying liners from puncture, including simultaneous puncture of multi-liner systems;

(3) Assist in the transmission of leachate in accordance with Env-Wm 2505.06 and Env-Wm 2506.05; and

(4) At multi-liner facilities, limit the potential for hydraulic head to be concurrently experienced on an underlying liner in the event a leak develops in an overlying liner.

(g) For multi-liner systems, geosynthetics may be used to separate the liners in areas of extended side slopes where placement and maintenance of granular materials is not possible or practical for reasons of stability.

(h) The design of all liner systems incorporating geomembrane materials shall include calculations to demonstrate stability.

(i) All liner systems shall be constructed by controlled methods, in accordance with a quality assurance/quality control plan established pursuant to Env-Wm 2505.16.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2505.06 Leachate Collection and Removal System Design Standards.

(a) Leachate collection and removal systems shall be required at all lined landfills, to collect and remove leachate contained within each liner system in conformance with Env-Wm 2506.05.

(b) Leachate collection and removal systems shall be designed to be hydraulically separate from the stormwater management system(s).

(c) Leachate collection and removal systems shall be designed to function effectively during freezing and frozen-ground conditions.

(d) Leachate collection and removal systems shall be designed to function effectively during both the active life of the landfill and the landfill closure and post-closure period. Therefore, for the purpose of sizing the system(s) components and specifying materials with an appropriate design life expectancy, the leachate generation rates and volumes for the above specified time period shall be considered.

(e) Leachate collection and removal systems shall be designed to maintain one foot or less of hydraulic head on all portions of the liner, excluding the leachate collection sumps if any, during routine operations including the 25-year storm event with a duration equivalent to the time of concentration of the drainage area of the component being sized.

(f) Leachate collection and removal systems shall be designed to manage the quantity of leachate to be generated by the 100-year storm event with a duration equivalent to the time of concentration of the drainage area which contributes to leachate generation, in a manner which shall:

(1) Not allow a hydraulic head greater than one-foot to exist on any portion of the liner system, excluding the leachate collection sumps, if any, for longer than 7 days;

(2) Provide storage and removal capabilities determined in accordance with (g) below if for a facility not directly connected to a permitted wastewater treatment facility or in accordance with (h) below if for a facility directly connected to a permitted wastewater treatment facility; and

(3) Not rely on leachate recirculation as a factor in determining the required storage and removal capabilities, even if leachate recirculation will be a routine operating procedure at the facility.

(g) Leachate collection and removal systems which are not directly connected to a permitted wastewater treatment facility shall provide capacity for storing leachate as follows:

(1) At least 15% of the 100-year storm storage volume, as specified by (f) above, shall be provided in primary storage units located outside the waste deposition area or in sumps located within the waste deposition area;

(2) The number of walls or liners in the primary storage units shall be no less than the number of liners within the landfill; and

(3) Containment for the volume of leachate produced by the 100-year storm event which exceeds the volume of the primary storage units shall be provided:

a. Within contingency storage units located outside the waste deposition area which shall be leak tight, and accessible for leak testing, inspection and repair, but not necessarily multi-walled; and/or

b. On the uppermost liner within a waste deposition area provided that:

1. Storage on the liner in excess of one-foot of hydraulic head shall be limited to a period of 7 days or less, based on procedures identified in the leachate management plan provided pursuant to Env-Wm 2506.05, including the pumping and removal rates required to reduce the hydraulic head within 7 days and the specifications for the equipment required to do so; and

2. Systems relying on valve closure to initiate storage on the liner shall be fully equipped with automated notification alarms to minimize the potential for overflow, in accordance with (p) below.

(h) Leachate collection and removal systems which are directly connected to a permitted wastewater treatment facility shall be designed as follows:

(1) The system shall provide leachate storage units outside the waste deposition area as necessary to meet the requirements of (f) above based on the allowable discharge rate of leachate to the wastewater treatment facility, pump capabilities and other such factors which limit the rate at which leachate removal can occur;

(2) Compatible pumping and removal rates shall be provided as a component of the facility's leachate management plan, pursuant to Env-Wm 2506.05; and

(3) Systems relying on valve closure to initiate storage shall be fully equipped with automated notification alarms to minimize the potential for overflow, in accordance with (p) below.

(i) The various components of a leachate collection and removal system shall:

(1) Be chemically compatible with the anticipated waste and leachate characteristics;

- (2) Provide access for monitoring flow, monitoring hydraulic head in the uppermost liner system, controlling flow and cleaning;
 - (3) Maintain integrity under both dynamic and static loading events for all phases of landfill development;
 - (4) Specify geotextiles based on calculations which incorporate the leachate generation and flow rates anticipated to occur during the operating and post-closure phases of the landfill; and
 - (5) Be designed to prevent the passage of fine particulates into the leachate collection and piping systems as well as mitigate against or eliminate the effects of any material capable of reducing the hydraulic flow capacity of the leachate collection and piping systems.
- (j) Pipes which require solvent welding shall not be used.
- (k) The drainage blanket shall:
- (1) Be designed to meet the requirements of (e) and (f) above;
 - (2) Contain no more than 15% calcium carbonate to prevent deposition and clogging and otherwise be of a quality that shall not result in clogging of the leachate collection and removal system(s); and
 - (3) Be constructed in accordance with a quality assurance/quality control plan established pursuant to Env-Wm 2505.16.
- (l) A facility shall not be designed to rely solely on managing leachate by recirculation methods.
- (m) Recirculation of leachate, if practiced, shall proceed only in accordance with the provisions of a leachate recirculation plan approved by the department as part of the facility's operating plan pursuant to Env-Wm 2805 based on the criteria in Env-Wm 2506.05.
- (n) Leachate collection and removal systems which depend on routine pumping, rather than gravity operating methods, shall only be used at facilities where a full-time operator shall be present during normal operating hours and where auxiliary power and pumping equipment shall be available.
- (o) Pump stations located outside the waste deposition area shall be designed to provide the following:
- (1) Backup pumping capacity;
 - (2) Backup power supply;
 - (3) High-water alarm; and
 - (4) Efficient operation during both average and peak flows.
- (p) Tanks, sumps or other storage units associated with leachate collection and removal systems, shall be equipped with high-water alarms.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2505.07 Leak Detection and Location System Design Standards.

- (a) A leak detection and location system designed to detect and isolate the location of leaks through a liner shall be required beneath each liner installed at a lined landfill, unless the potential for leakage through the bottom most liner is reduced by one or both of the following design features:

(1) Geonet is incorporated throughout the leachate collection and removal system for the bottom most liner, in order to rapidly convey leachate off the liner and thereby limit the potential for hydraulic head to develop on the liner; or

(2) The bottom most liner is a composite liner which meets the requirements of Env-Wm 2505.04(c).

(b) Leak detection and location systems shall be designed to:

(1) Convey liquids to an observation point for detection, based on a maximum time of concentration equal to 24-hours under saturated hydraulic conditions; and

(2) Provide a means for isolating the potential location of a leak.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2505.08 Groundwater and Surface Water Monitoring System Design Standards.

(a) At least one groundwater monitoring well shall be installed hydraulically upgradient from the landfill and at least 3 monitoring wells shall be installed in each down-gradient direction.

(b) The location, materials and specifications of the groundwater and surface water monitoring system shall comply with the requirements of RSA 485-A .

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2505.09 Stormwater Management System Design Standards.

(a) All landfills shall include a stormwater management system to:

(1) Divert run-on around or away from the facility;

(2) Control run-off discharge from the facility;

(3) Control erosion, sedimentation, siltation, and flooding; and

(4) Minimize the generation of leachate.

(b) Stormwater management systems shall be designed to accommodate the 25-year storm event of a duration equivalent to the time of concentration of the drainage area being served.

(c) Stormwater management systems shall be designed to accommodate all phases of the landfill's active life, as well as the closure and post-closure period.

(d) Stormwater management systems shall be hydraulically separate from the leachate collection and removal system(s).

(e) Stormwater management systems shall be designed to function effectively during frozen ground conditions.

(f) Permanent sedimentation ponds and detention ponds shall be sized to handle the 25-year/24-hour storm event with no less than one foot of freeboard below the emergency spillway invert.

(g) Peak surface run-off from the landfill site during the 25-year storm event shall be controlled and maintained at the pre-development discharge rate, in accordance with RSA 485-A.

(h) All stormwater that contacts waste shall be managed as leachate unless representative analytical characterization conducted in accordance with the facility's approved operating plan demonstrates the liquid may be lawfully discharged to ground or surface waters without treatment.

(i) Perimeter drainage swales shall be provided to channel run-off during facility development based on the planned sequence of filling pursuant to Env-Wm 2506.02 and during the facility's post-closure period.

(j) Perimeter drainage swales shall be designed and located to accommodate facility capping.

(k) Surface water run-on shall be diverted around and away from the facility by using berms and ditches or similar methods.

(l) Surface water run-off shall be controlled by using benches, terraces, diversion berms and diversion swales or similar methods.

(m) Erosion shall be controlled by using vegetation, terrace berms, silt fences and check dams or similar methods.

(n) Closed drainage systems, if used, shall include provisions for inspections, monitoring and maintenance.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97; amd by #6894-B, eff 12-1-98

Env-Wm 2505.10 Landfill Capping System Design Standards.

(a) Landfill capping systems shall be designed to meet the performance standards in Env-Wm 2507.04 so as to:

(1) Reduce leachate generation by limiting to the extent practicable precipitation and surface water infiltration of the waste, through placement of either impermeable or low-permeable cover materials over landfilled areas;

(2) Promote drainage of stormwater and other surface waters away from and around the facility, by properly grading the facility and surrounding areas, and by constructing drainage structures, including berms, trenches, swales, ditches and detention ponds;

(3) Limit erosion and sedimentation by controlling stormwater drainage and by seeding, vegetating, riprapping or otherwise stabilizing surface soils against the effects of wind and water;

(4) At facilities that will generate methane gas, control the release of methane gas from the facility by incorporating vents designed to function properly in all anticipated weather conditions, including heavy or drifting snow, or by incorporating recovery wells or similar methods, to assure compliance with Env-Wm 2506.07;

(5) Protect or isolate the underlying waste materials from exposure to the environment to limit the attraction of vectors, production of odors, risk of injury or fire, and other threats to the public health and safety;

(6) Resist damage due to the influences of freeze-thaw cycles, settlement, loading or other anticipated conditions which, not properly considered during design, will result in over stressing the cap; and

(7) Remediate environmental damage resulting from the facility's operation, if determined necessary by the department on the basis of groundwater and surface water quality at the site or on the basis of other conditions involving environmental degradation at the site prior to closure.

(b) Lined landfill capping systems shall be designed in cross section according to the specifications provided in (e) below.

(c) Unlined landfill capping systems shall be designed in cross section according to the specifications provided in either (e) or (f) below.

(d) For unlined landfills, the type of capping system required pursuant to (e) or (f) below shall be based on which system type will meet the performance standards in Env-Wm 2507.04, using the following factors to make the determination:

- (1) Type and quantity of waste received by the facility;
- (2) Size of facility footprint;
- (3) Compliance and performance history of the facility;
- (4) Extent of groundwater to waste contact zones, if any;
- (5) Groundwater and surface water quality at the facility site;
- (6) Proximity to drinking water supplies;
- (7) Age of the facility;
- (8) Site topography; and
- (9) Geologic and hydrogeologic characteristics of the site.

(e) Impermeable landfill capping systems shall, at a minimum, be comprised of the following layers, from the top of the waste to the top of the cap:

- (1) Layer one, immediately overlying the waste, shall:
 - a. Serve to provide a stable, properly graded base for the placement of layer 2;
 - b. Be designed to resist raveling, or the sifting of fines downward into the underlying wastes; and
 - c. Consist of no less than 12-inches of unspecified soil;
- (2) Layer 2 shall:
 - a. Serve to protect layer 3 from potential damage by underlying coarse soil materials;
 - b. Serve to transmit decomposition gases to gas vents if active gas extraction wells are not used;
 - c. Consist of 12 inches of sand with 100% passing the one inch sieve and with no more than 12% passing the no. 200 sieve on a weight basis if for a facility without an active gas extraction system or 6 inches of soil with 100% passing the one inch sieve if for a facility with an active gas extraction system; and
 - d. Be constructed in accordance with a quality assurance/quality control plan established pursuant to Env-Wm 2505.16;
- (3) Layer 3 shall consist of an impermeable barrier which shall:

- a. Minimize the infiltration of water into underlying wastes so as to limit continued leachate production and the associated adverse impacts to the quality of groundwater and surface waters; and
- b. Consist of a geomembrane with a minimum thickness of 40 mils or an impermeable soil, or admixture; and
- c. Be constructed in accordance with a quality assurance/quality control plan established pursuant to Env-Wm 2505.16;

(4) Layer 4 shall:

- a. Provide for the removal of water which infiltrates through the topsoil layer, or layer 5;
- b. Protect layer 3 from penetration or other damage, including frost and desiccation;
- c. Consist of:
 - 1. At least 18 inches of free-draining sand which has a saturated hydraulic conductivity of no less than 1×10^{-3} cm/sec, will pass on a weight basis no more than 10% through the No. 200 sieve and contains no more than 15% calcium carbonate; or
 - 2. Geonet and no less than 12 inches of drainage sand, specified based on the results of a hydraulic calculation supporting the design and containing no more than 15% calcium carbonate;
- d. Be constructed in accordance with a quality assurance/quality control plan established pursuant to Env-Wm 2505.16; and
- e. Terminate in a drainage system at the toe of the slope of the cap that is designed to readily remove water transmitted by layer 4;

(5) Layer 5 shall:

- a. Serve to stabilize the capping system against the forces of wind and water erosion;
- b. Provide a low-maintenance surface;
- c. Promote evapotranspiration, meaning loss of water from the soil by both evaporation and transpiration from plants growing thereon;
- d. Provide ease of visual inspection of the capping system surface; and
- e. Consist of no less than 4 inches of topsoil, which is fertilized and vegetated.

(6) Alternative or supplemental materials to the topsoil specified in (5) above shall be utilized if determined necessary by the permittee and agreed to by the department on the basis of actual site features and conditions, to achieve the required stability or erosion control.

(f) Low permeable capping systems, formerly referred to by the department as "extended interim closure," shall be comprised of the following layers, at a minimum, from the top of the waste to the top of the cap:

(1) Layer one shall conform to the requirements for layer one for impermeable capping systems as specified in (e)(1) above;

(2) Layer 2 shall:

- a. Serve to isolate wastes from the environment and to protect public health;
- b. Reduce the infiltration of water into underlying wastes;
- c. Consist of no less than 18 inches of soil with a saturated hydraulic conductivity not greater than 1×10^{-5} cm/sec; and
- d. Be constructed in accordance with a quality assurance/quality control plan pursuant to Env-Wm 2505.16;

(3) Layer 3 shall conform to the requirements for layer 5 for impermeable capping systems as specified in (e)(5) above.

(g) Landfill capping systems shall be designed to manage properly stormwater resulting from the 25-year/24-hour storm event and incorporate at least one of the following:

- (1) Intermittent swales on the side slopes of the capping system, placed at an interval of 20 vertical feet or minimum spacing of 100 feet as measured from the center line of the swales, with a minimum slope of 2 percent to allow for settlement; or
- (2) An erosion-resistant moisture retention layer, placed directly under the vegetated layer, designed to sustain vegetative growth and effectively resist gully erosion.

(h) Stability calculations for the landfill capping system shall be submitted by the applicant to support the proposed design.

(i) Excluding the drainage swales noted in (g)(1) above, landfill capping systems shall be designed at a slope of 5% or greater, as necessary to accommodate the anticipated effects of settlement and consolidation and assure positive drainage and stability of the capping system during the post-closure period.

(j) The landfill capping system shall:

- (1) Extend beyond the confirmed limits of landfilled waste and the underlying liner systems; and
- (2) Terminate and/or be anchored in a manner which:
 - a. Stabilizes the capping system against creep, pull-out and material failure due to excessive stress;
 - b. Limits erosion or wash-out at the toe-of-landfill slope(s); and
 - c. Limits, to the extent practicable, surface water from infiltrating into the waste.

(k) The landfill capping system and the post-closure period stormwater management system shall be compatible in design. Hydraulic calculations to support the proposed design shall be provided, including calculations to demonstrate that the drainage media shall function as intended in the design.

(l) Unless the facility only receives inert waste such as concrete debris, the landfill capping system shall incorporate a methane gas management system meeting the performance criteria of Env-Wm 2506.07.

(m) Landfill capping systems shall be designed to support such loading as might occur during and following construction, including activities anticipated to occur during post-closure inspections, monitoring and maintenance, such as maintenance vehicles driving over the cap.

(n) On-the-ground markers or other type of control points shall be placed at the facility site to allow facility inspectors to readily identify and locate the limits of the capping system.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2505.11 Other Landfill Design Requirements.

- (a) The sequencing of facility development shall be planned based on subdividing the footprint into areas separated by berms.
- (b) The subdivisions of a footprint shall be referred to as phases, stages and cells, each term being used as defined in Env-Wm 102.
- (c) A facility shall be comprised of one or more phases, within which may exist one or more stages, within which may exist one or more cells, depending on the size of the facility and the design of the leachate management system.
- (d) The layout and the configuration of, and the sequence for developing the phases, stages and cells shall, by design:
 - (1) Limit leachate generation by controlling the amount of area open to active operation and otherwise placing waste in a controlled manner consistent with the requirements in Env-Wm 2506.02;
 - (2) Limit the length of time unused cells remain inactive; and
 - (3) Avoid the need to decommission groundwater monitoring wells as facility development proceeds and new stages or phases are constructed.
- (e) Fill sequencing/facility development plans shall be prepared as part of the facility operating plan to show clearly the sequencing of facility development.
- (f) Fill sequencing/facility development plans shall:
 - (1) Show elevations and placements of lifts, as well as general access points;
 - (2) Be compatible with the facility's leachate management system design capabilities and limitations;
 - (3) Be compatible with the facility's stormwater management system design capabilities and limitations;
 - (4) Be compatible with the facility closure design; and
 - (5) Provide information and detail sufficient to allow a facility operator to operate the landfill in accordance with the approved design.
- (g) Main access roads within the property boundary of a landfill leading to and from the working face of the landfill shall be designed and maintained to support the required loading, as well as limit to the extent practicable traffic congestion, road safety hazards and dust production.
- (h) Main access roads onto/into property shall be fenced if necessary to catch blowing paper.
- (i) Landscaping features shall be incorporated in conformance with Env-Wm 2803.04.
- (j) Final grades at the facility shall be designed to blend with surrounding features to the greatest extent practicable.
- (k) Perimeter and interior berms shall be analyzed for stability.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2505.12 MSW Landfill Design Standards.

(a) Landfills receiving MSW shall be designed as double-lined facilities pursuant to Env-Wm 2505.05; and

(b) Landfills receiving MSW shall be designed to provide the capability to operate in a manner that promotes rapid biological stabilization of landfilled wastes, as by leachate recirculation and/or bioreactor technologies.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2505.13 MSW Incinerator Ash Landfill Design Standards. Landfills receiving MSW incinerator ash shall be double-lined facilities pursuant to the requirements of Env-Wm 2505.05.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2505.14 Construction/Demolition Debris Landfill and Coal Ash Landfill Design Standards.

(a) Except as provided by Env-Wm 2505.15 and subject to (b) below, landfills receiving construction and demolition debris only or coal ash only may be designed as single-lined facilities pursuant to the requirements of Env-Wm 2505.05.

(b) If, based on an evaluation of the facility's proposed operating plan and/or identification of the specific type or source of the wastes, the characteristics of the wastes cannot be consistently determined or assured or the characteristics pose a threat to groundwater quality, the facility shall be a double-lined facility.

(c) Design features shall include the means to control and extinguish fires which might occur within the landfill and to otherwise limit the potential for liner damage due to fire.

(d) Landfills which co-mingle construction and demolition debris with other waste types shall meet the design requirements set forth in this part relative to the other waste types, if the latter are more stringent than the requirements set forth in (a) above.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2505.15 Design Standards for Landfills Receiving Other Solid Waste Types.

(a) Landfills for any waste type(s) not specifically identified in Env-Wm 2505.12 through Env-Wm 2505.14 shall be designed as double lined facilities, except as provided by (b) below and subject to the landfilling prohibitions in Env-Wm 2506.12.

(b) Landfills which receive only stumps and brush or only asbestos or only inert demolition debris, as assured through the provisions of the facility's operating plan, may be designed as unlined landfills pursuant to Env-Wm 2505.02(b).

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2505.16 Quality Assurance/Quality Control Standards for Liner and Capping Systems.

(a) Liners and capping systems shall be tested and placed in strict accordance with a quality assurance/quality control (QA/QC) plan developed in accordance with this part and approved by the department as part of the construction contract documents provided pursuant to the provisions for a type II permit modification in Env-Wm 315.

(b) The QA/QC plan for the soil components within a leachate collection system and within a leak detection system, and the soil drainage and gas migration layers within a capping system shall, at a minimum, specify criteria for acceptance based on the following tests:

(1) Grain size distribution pursuant to ASTM D422 for:

- a. Every 3000 cubic yards of unprocessed sand; or
- b. Every 10,000 cubic yards of sand which has been processed to meet the project specifications;

(2) Hydraulic conductivity pursuant to ASTM D2434 for each new source of sand material except for the gas migration layer(s); and

(3) Calcium carbonate content pursuant to ASTM D4373 for each new source of sand material except for the gas migration layer.

(c) The QA/QC plan for soil liners and caps shall, at a minimum, specify:

(1) Compaction test method pursuant to ASTM D698 or ASTM D1557 and testing frequency for liner or cap material;

(2) Permeability test method pursuant to ASTM D5084 and testing frequency for liner or cap material;

(3) In place sampling method pursuant to ASTM D1587 and permeability testing frequency of the constructed liner or cap;

(4) Criteria for acceptance of liner or cap; and

(5) Provisions for correcting the installation of off-specification materials.

(d) Geomembranes used as materials for the capping and lining of a landfill shall be manufactured, handled, deployed, seamed and inspected in accordance with a QA/QC plan as follows:

(1) The QA/QC plan shall require:

a. The project engineer pursuant to Env-Wm 2804.06 or his/her designee to verify the quality of the geomembrane material and all phases of geomembrane construction; and

b. The project engineer or his/her designee to be present on site at all times during handling, deployment, seaming, testing and covering of any geomembrane liner or cap and have the authority to order testing and to reject any materials or constructed systems which might affect the liner's or cap's performance for any reason;

(2) The QA/QC plan shall:

a. State clearly the minimum qualifications of the project engineer or his/her designee;

b. Outline the specific duties of the project engineer or his/her designee with respect to the QA/QC plan; and

c. Require the project engineer to provide QA reports as specified in Env-Wm 2804.04;

(3) The QA/QC plan shall contain manufacturer's quality assurance requirements to assure that geomembranes used for landfill liners or caps shall be of a consistent quality and meet the project specifications;

(4) The QA/QC plan, at a minimum, shall:

- a. State the type of geomembrane and the minimum requirements of raw material quality and formulation; and
- b. Identify the minimum acceptance standards for manufactured geomembrane sheets, including overall sheet quality, a list of acceptable index properties and quality of factory seams;

(5) The QA/QC plan shall reference the appropriate standard tests, such as ASTM or GRI, to verify that the requirements cited in (4) above have been met;

(6) To assure that geomembrane material shall not be damaged from the time it leaves the factory to the time it is finally covered, the QA/QC plan shall address the following:

- a. Requirements for shipping, handling and site storage to assure that the material shall be protected from damage and sunlight;
- b. Minimum quality standards for the subgrade upon which the geomembrane will rest;
- c. Provisions for the project engineer or his/her designee to inspect the subgrade prior to placement of any geomembrane and, pursuant to Env-Wm 2804.04, certify that the subgrade has been installed in accordance with contract documents;
- d. Standards for the placement of geomembrane material which address, at a minimum, placement methods, unfavorable weather conditions, excessive heat or cold, and wind; and
- e. The upper limit on the amount of patching any geomembrane panel can receive;

(7) The QA/QC plan shall contain minimum requirements for seam quality and specific remedies for when the minimum requirements are not met;

(8) The QA/QC plan, at a minimum, shall:

- a. Verify the competence of seaming and welding equipment and personnel prior to seaming and welding;
- b. State the frequency at which testing shall occur and the testing protocol to be met;
- c. Require the project engineer or his/her designee to have authority to reject any equipment or personnel not passing the tests specified by the QA/QC plan;
- d. Specify testing for seam strength at a specified interval and criteria for pass/fail; and
- e. Specify testing for seam continuity;

(9) The QA/QC plan shall reference the appropriate standard tests, such as ASTM or GRI, to verify that the requirements cited in (8) above have been met;

(10) The QA/QC plan shall contain provisions for protecting the geomembrane during covering and backfilling; and

(11) The QA/QC plan shall be:

- a. Part of the specifications for the contract documents prepared and submitted to the department for construction approval, pursuant to Env-Wm 2804 and the provisions for a type II permit modification in Env-Wm 315; and
- b. Be approved by the department as a condition of any construction approval granted.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

PART Env-Wm 2506 OPERATING REQUIREMENTS

Env-Wm 2506.01 Applicability.

- (a) The operating requirements in this part shall apply to all landfills, except:

- (1) Existing landfills which ceased operating prior to October 29, 1997 and do not resume operations on or after October 29, 1997;
- (2) Permit-exempt landfills identified in Env-Wm 302.02 or Env-Wm 2510;
- (3) Permit-by-notification landfills having an active life of 90 days or less;
- (4) Research and development permit facilities as provided by Env-Wm 312.02(b);
- (5) Emergency permit facilities as provided by Env-Wm 313.02(b).

(b) The operating requirements in this part shall apply as the complement of operating requirements in Env-Wm 2705 for all facilities, Env-Wm 2805 for facilities having an active life longer than 90 days, Env-Wm 2904 for permit-by-notification facilities and, depending on the type of waste managed, Env-Wm 2600.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2506.02 Waste Placement.

(a) As part of the facility operating plan, a fill sequencing plan shall be developed in accordance with Env-Wm 2505.11 and implemented in accordance with the requirements of this section.

(b) Wastes shall be placed only within the permitted vertical and lateral limits of the landfill.

(c) Wastes shall be placed in a controlled manner, in accordance with the fill sequencing plans.

(d) Fill sequencing plans shall be developed on the basis of limiting the quantity of leachate a facility generates, through grading and covering techniques which maximize the quantity of received precipitation that can be handled as stormwater.

(e) Unloading of waste shall be confined to the smallest practical area.

(f) Exposed waste on the working face of the landfill shall be limited, to reduce precipitation contact with the waste and to allow the area to be covered as required pursuant to Env-Wm 2506.03.

(g) All waste shall be evenly spread in shallow lifts and compacted, in accordance with plans and procedures which:

- (1) Assure stability;

- (2) Limit potential future settlement;
- (3) Limit rainfall infiltration; and
- (4) Are consistent with the progressive development of final grades.

(h) The first layer of waste placed above the leachate collection layer shall be a minimum of 4 feet in compacted thickness and be of a select nature containing no large or rigid objects, such as pipes or posts, that might cause damage to the liner system or instability.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2506.03 Landfill Cover During Operations.

(a) An approved cover material shall be applied over all sides and working faces of the landfill in a manner and at a frequency required to achieve the following performance objectives:

- (1) Minimize the dispersal of offensive odors;
- (2) Minimize the potential to attract and harbor vectors;
- (3) Control drainage in accordance with Env-Wm 2505.06, Env-Wm 2505.09, Env-Wm 2506.05, and Env-Wm 2506.06;
- (4) Control unsightly conditions and windblown waste;
- (5) Reduce the potential for fire;
- (6) Provide stability; and
- (7) Assist in the proper development of final grades, as set forth in the facility's approved fill sequencing plans.

(b) A material shall not be approved or used as cover material unless:

- (1) The material exhibits characteristics required to achieve the performance objectives in (a) above;
- (2) Use of the material will not:
 - a. Cause equipment or operational problems;
 - b. Contribute to the deterioration of leachate quality at lined landfills;
 - c. Cause groundwater contamination at unlined landfills; and
 - d. Pose a hazard to human health through skin contact or respiration; and
- (3) The material itself:
 - a. Is not a hazardous waste;
 - b. Is physically and chemically consistent in nature; and
 - c. Contains no free liquids.

(c) At landfills receiving MSW, cover material shall be placed over all exposed waste no less frequently than at the end of each operating day.

(d) Subject to the requirements in (b) above, the following materials shall be approved as working face cover material:

(1) Natural soils; and

(2) The following alternate materials, provided that use of the material is approved as part of the facility operating plan or approved as a type III permit modification pursuant to Env-Wm 315:

a. Geosynthetic tarps;

b. Casting sands;

c. A waste certified for distribution and use as landfill cover pursuant to the provisions of Env-Wm 3200; and

d. Contaminated soil, subject to the requirements of Env-Wm 2603.05.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97; ss by #6894-B, eff 12-1-98

Env-Wm 2506.04 Operating Standards for Groundwater and Surface Water Monitoring. A water quality monitoring program shall be implemented at all landfills, if required pursuant to the provisions of RSA 485-A.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2506.05 Leachate Management Requirements.

(a) All lined landfills shall manage leachate by collecting and removing it from the liner system(s) to an approved treatment or disposal facility.

(b) As part of a facility's operating plan, a leachate management plan shall be developed and implemented at all lined landfills, based on the following criteria:

(1) Routine facility operations, including operations during the 25 year storm event, shall not result in more than one foot of hydraulic head on the liner system(s);

(2) The quantity of leachate generated at the facility shall be limited to the extent possible, by properly planning the sequenced development of the facility, properly managing stormwater infiltration and inflow, minimizing the active area of the landfill and applying cover in accordance with Env-Wm 2506.03;

(3) No less than 2 locations for leachate treatment or disposal shall be available by written agreement to manage the quantity of leachate generated by the facility during its active life, except as provided in (4) below;

(4) Facilities that are directly connected to permitted wastewater treatment facility need only to provide one location for leachate management, other than the treatment facility;

(5) The recirculation of leachate shall be prohibited at ash monofills;

(6) At MSW landfills, leachate recirculation shall be allowed if approved by the department subject to (7) below, as part of the facility's operating plan prepared pursuant to Env-Wm 2805.

(7) The practice of leachate recirculation shall:

- a. Not adversely affect the quality of the leachate so as to preclude its acceptance at waste water treatment facilities listed in the leachate management plan;
- b. Not cause the facility to operate in excess of 12 inches of hydraulic head on the liner under routine operations including the 25 year storm event;
- c. Not result in a loss of structural stability;
- d. Not be adversely affected by weather conditions, such as freezing temperatures or periods of heavy rainfall; and
- e. Provide a benefit to facility operations, exclusive of any short or long-term economic benefit which may be associated with postponing leachate collection and removal.

(c) Storage capacity shall be required to contain the leachate generated by the precipitation from the 100-year storm event in accordance with Env-Wm 2505.06.

(d) A pumping/removal schedule shall be incorporated into facility operations to assure the availability of storage capacity.

(e) Regularly-scheduled inspections and routine maintenance of the leachate collection and removal systems shall be established as part of the facility's operating plan to limit clogging of the systems and to otherwise assure the functional integrity of the systems.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2506.06 Stormwater Management Requirements. The permittee shall grade the site to redirect run-on/off away from the active face of the landfill, reduce the amount of leachate generated, and reduce the potential for erosion, in accordance with Env-Wm 2505.09.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2506.07 Decomposition Gas Control Requirements.

(a) Decomposition gases shall be controlled to prevent hazards to health, safety or property.

(b) Facility operations shall not cause the concentration of methane and other explosive gases to:

- (1) Exceed 25 percent of the lower explosive limit for gases in structures on or off-site, excluding leachate collection and gas control and recovery components; and
- (2) Exceed 50 percent of the lower explosive limit for the gases at and beyond the property boundary within the soil.

(c) To assure that the requirements in (a) above are met, a monitoring program shall be implemented by the permittee in accordance with provisions in the facility's approved operating plan and closure plan.

(d) The type and frequency of monitoring shall be based on the following factors:

- (1) Soil conditions;
- (2) The hydrogeological and hydraulic conditions surrounding the disposal area; and

(3) The location of any man-made structures and property boundaries.

(e) If methane or other explosive gases are detected above the limits specified in (b) above, the permittee shall notify the department immediately and implement contingency procedures to ensure the protection of public health and safety.

(f) A decomposition gas program shall be implemented by the permittee under the provisions of the facility's approved operating plan and closure plan to assure that the facility complies with the federal clean air act and state air quality standards.

(g) A written plan for confined space entry, based on the standards specified by Federal Occupational, Safety and Health Administration (OSHA) requirements, shall be prepared and implemented as part of facility operations.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2506.08 Inspections, Maintenance, Monitoring and Reporting Requirements.

(a) This section establishes requirements, in addition to those requirements specified in Env-Wm 2700 and Env-Wm 2800, for inspecting, maintaining and monitoring landfills which have not undergone closure pursuant to an approved closure plan, and specifies the reporting requirements related thereto.

(b) Unless otherwise specified, the word "daily" as used in this section shall mean on each operating day.

(c) The permittee shall regularly inspect and maintain all facility components, including:

- (1) Roads;
- (2) Berms;
- (3) Active and inactive filling areas;
- (4) Pipes;
- (5) Vaults;
- (6) Valves;
- (7) Tanks;
- (8) Ponds;
- (9) Equipment;
- (10) Temporary, intermediate and final cover;
- (11) Groundwater monitoring wells; and
- (12) Gas management devices.

(d) Leachate management systems shall be monitored, and the data recorded in the facility operating records, as follows:

- (1) The hydraulic head elevation on the liner shall be measured at the low point of a cell, phase or stage where leachate is collected, and recorded:

- a. At least once per month;
 - b. After each storm event greater than or equal to the 2-year/24 hour storm; and
 - c. If the hydraulic head is found to be 12 inches or greater, daily until the hydraulic head is less than 12 inches;
- (2) The quantity of leachate collected off the liner systems and transported off-site or treated shall be measured daily, and the destination recorded;
- (3) Flow in the secondary leachate collection system(s), shall be measured and recorded:
- a. At least once per week; and
 - b. More frequently when required to complete an investigation pursuant to (k) below;
- (4) The average flow in the secondary leachate collection system(s) occurring during the 30-day operating period preceeding the last measurement shall be calculated, recorded and, when required pursuant to (k) below, reported;
- (5) Analytical characteristics, based on representative samples taken from the primary leachate collection system in April, July and November, shall be determined for the following parameters:
- a. pH;
 - b. Temperature;
 - c. Chemical oxygen demand (COD);
 - d. Specific conductance;
 - e. Iron;
 - f. Manganese;
 - g. Sulfates;
 - h. Chlorides;
 - i. Chromium;
 - j. Lead;
 - k. Cadmium; and
 - l. Except for ash landfills, volatile organic compounds (VOCs); and
- (6) The liquid level in the leachate storage tanks shall be measured on a daily basis at facilities not connected to a wastewater treatment facility and on a weekly basis at facilities connected to a wastewater treatment facility.
- (e) Landfill gas concentrations shall be measured no less than quarterly and in accordance with Env-Wm 2506.07.
- (f) Groundwater and surface water quality monitoring systems shall be monitored and the data reported as required pursuant to RSA 485-A.

(g) Facilities shall file quarterly and annual reports in accordance with Env-Wm 303, according to the following schedule:

(1) Quarterly reports shall be filed no later than 30 days following the end of the quarterly reporting period; and

(2) Annual reports shall be filed no later than March 31 of the year following the calendar year being reported.

(h) The quarterly report shall include:

(1) The name and permit number of the reporting facility;

(2) The data specified by (d) and (e) above, excluding leachate analytical data required by (d)(5);

(3) Quantity and type of waste received by the facility daily, in tons;

(4) Data units for each type of data reported;

(5) Reporting period and/or dates the data was collected, for each type of data reported; and

(6) Monthly and quarterly subtotals for each type of data reported.

(i) The leachate analytical data required pursuant to (d)(5), above, shall be filed in accordance with Env-Wm 303, no later than 30 days following receipt of analytical results.

(j) Annual reports shall:

(1) Be prepared as specified by Env-Wm 2805.13 and Env-Wm 2805.14, as applicable; and

(2) Include:

a. A summary of the facility inspection and maintenance activities; and

b. An analysis of remaining capacity based on a site survey which identifies the remaining facility capacity.

(k) The following reporting requirements shall apply to the average secondary leachate collection system flow rates occurring over a 30-day period:

(1) Rates less than or equal to 25 gallons per tributary acre per day shall be reported to the department in accordance with (h) above no less than quarterly;

(2) Rates which exceed 25 gallons per tributary acre per day shall be reported to the department within one week of identifying the rate, except for flow which the department agrees is the result of the dewatering of the drainage layer following construction; and

(3) Except for flow which the department agrees is the result of the dewatering of the drainage layer following construction, rates which exceed 100 gallons per tributary acre per day shall require the permittee to file an investigation report with the department in accordance with Env-Wm 2506.09.

(l) Destruction of facility records shall not occur unless approved by the department pursuant to the provisions for a type V permit modification in Env-Wm 315.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2506.09 Other Operating Standards.

- (a) Equipment for spreading, compacting and covering solid wastes under all anticipated weather conditions shall be available and in operating condition at all times.
- (b) Auxiliary equipment shall be available as required by the facility's operating plan.
- (c) Salvaging of solid waste shall be controlled so as not to interfere with landfill operations and not to harbor vectors or otherwise result in violating the universal facility requirements in Env-Wm 2700.
- (d) Salvaging that constitutes landfill reclamation shall be subject to Env-Wm 2508.
- (e) The permittee shall investigate the occurrence of flow rate in the secondary leachate collection system that exceeds 100-gallons per tributary acre per day and which cannot be reasonably attributed to the dewatering of the drainage layer following construction.
- (f) The investigation in (e) above shall be for the purpose of identifying the potential cause(s) and appropriate response actions related thereto, which shall be reported to the department in writing in the form of a proposed response action plan.
- (g) The permittee shall implement the approved response action plan to include any of the following actions deemed necessary on the basis of the likely cause and remedy of the problem:
 - (1) Increasing monitoring and reporting;
 - (2) Instituting operational changes to limit hydraulic head on the overlying liner;
 - (3) Locating and repairing leak(s);
 - (4) Retrofitting the overlying liner; and/or
 - (5) Closing part or all of the facility if necessary to protect human health and environment.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2506.10 Construction/Demolition Debris Landfill Operating Requirements. Landfills receiving construction and demolition debris shall comply with the operating standards set forth in this part and in Env-Wm 2505.14.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2506.11 Asbestos Waste Landfill Operating Requirements. Landfills receiving asbestos shall operate in compliance with Env-Wm 2601, this part and Env-Wm 2505.15.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; amd by #5297, eff 12-24-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2506.12 Prohibitions. The following wastes shall not be landfilled:

- (a) Untreated infectious waste;
- (b) Contained gaseous waste;
- (c) Liquid wastes;

- (d) Wet cell batteries, pursuant to RSA 149-M:27,II; and
- (e) Leaf or yard waste, except as provided in RSA 149-M:27,III.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

PART Env-Wm 2507 CLOSURE REQUIREMENTS

Env-Wm 2507.01 Applicability.

- (a) The rules in this part shall apply to closure of all landfills, except:
 - (1) Existing permitted facilities which have closed in accordance with a department approved closure plan and have achieved the performance standards in Env-Wm 2507.04;
 - (2) Permit-exempt facilities, operated and closed in compliance with the exemption;
 - (3) Permit-by-notification facilities having an active life of 90 days or less, which have operated and closed in compliance with the permit-by-notification;
 - (4) Research and development permit facilities as provided by Env-Wm 312.02(b); and
 - (5) Emergency permit facilities as provided by Env-Wm 313.02(b).

(b) The closure requirements in this part shall apply as the complement of the closure requirements in Env-Wm 2706 for all facilities, Env-Wm 2806 for facilities having an active life longer than 90 consecutive days and, depending on the type of waste managed, Env-Wm 2600.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2507.02 Closure Scheduling.

(a) Except as noted in (b) below, a landfill which has operated in compliance with its permit shall be subject to closure on a schedule specified in the permit based on the facility capacity and life expectancy.

(b) A landfill which holds a temporary permit shall be subject to closure on a schedule determined pursuant to Env-Wm 307.

(c) Other circumstances which shall provide cause for closure shall be as specified in Env-Wm 2706.01.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97; amd by #6894-B, eff 12-1-98

Env-Wm 2507.03 Landfill Closure and Post-Closure Requirements.

(a) Landfills shall be closed in accordance with an approved closure plan pursuant to Env-Wm 2806.

(b) Subject to (c), below, landfill closure and post-closure activities shall involve all activities required at a facility to achieve the performance standards in Env-Wm 2507.04, including:

- (1) Terminating active use of the facility;
- (2) At unlined landfills, investigating the extent of waste to groundwater contact zones, if any, and if required under RSA 485-A:

- a. Removing the waste out of groundwater; and/or
 - b. Lowering the groundwater table;
- (3) Consolidating landfilled waste within the permitted footprint, grading slopes and otherwise configuring the facility for acceptance of a capping system that meets the requirements of Env-Wm 2505.10;
 - (4) Constructing and maintaining a capping system at the facility which meets the standards set forth in Env-Wm 2505.10;
 - (5) Constructing, operating and maintaining a stormwater management system for the capped facility and site in accordance with the standards set forth in Env-Wm 2505.09 and Env-Wm 2506.06;
 - (6) Operating and maintaining the facility's leachate management system in accordance with Env-Wm 2506.05 and in accordance with a schedule specified in the approved post-closure monitoring and maintenance plan;
 - (7) Operating, maintaining and monitoring the facility's leak detection system(s) in accordance with the provisions of the approved post-closure monitoring and maintenance plan;
 - (8) Constructing, operating and maintaining the facility's groundwater and surface water monitoring system and implementing the facility's approved post-closure groundwater and surface water monitoring program in accordance with RSA 485-A;
 - (9) Constructing, operating, and maintaining the facility's decomposition gas control system as applicable, in accordance with Env-Wm 2506.07;
 - (10) Monitoring settlement, both by visual inspection and by using established control points, and making related repairs to the facility as needed including the repair of areas where settlement exceeds the capping system's design tolerances and the repair of areas where settlement results in the loss of positive drainage;
 - (11) Providing control of access to the facility in accordance with Env-Wm 2704 and to facilitate compliance with the performance standards provided in Env-Wm 2507.04 and to otherwise limit threats to public health, safety and the environment;
 - (12) Providing financial assurance for the cost of post-closure monitoring, in accordance with Env-Wm 3100;
 - (13) Meeting all requirements in Env-Wm 2507.05 and filing all reports with the department in accordance with Env-Wm 2805.14; and
 - (14) Undertaking any other activities, including remedial activities, as necessary to achieve compliance with Env-Wm 2507.04.
- (c) Maintaining a closed landfill or any component thereof shall include all inspection, monitoring and repair work required to satisfy the performance standards in Env-Wm 2507.04 and the reporting requirements in Env-Wm 2507.05.
 - (d) For landfills existing prior to October 29, 1997 and located on property not owned by the permittee, the permittee shall obtain legal rights of access to the property prior to facility closure for the purpose of meeting all required closure and post-closure obligations at the facility in accordance with the solid waste rules. Such legal rights of access shall be for a period of time not less than 99 years.

7-1-91; amd by #5297, eff 12-24-91; ss by #6535, INTERIM, eff 7-1-97,
EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2507.04 Performance Standards. The permittee shall assure through implementation of an approved closure plan that:

- (a) The facility and site shall effectively cease generating leachate;
- (b) The facility and site shall effectively cease generating decomposition gases;
- (c) The facility and site shall achieve maximum settlement, with the capping system intact and no reasonable expectation that integrity of the capping system will be at risk without regular maintenance;
- (d) The facility and site shall have no adverse impact to air, groundwater or surface water; and
- (e) The facility and site shall not otherwise pose a risk to human health or the environment.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; amd by #5297, eff 12-24-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2507.05 Post-Closure Inspections, Monitoring, Maintenance and Reporting Requirements.

(a) The post-closure period of a landfill shall be the period of time required to demonstrate the facility has achieved the performance standards specified in Env-Wm 2507.04.

(b) During the post-closure period, the permittee shall have specific obligations to regularly inspect, monitor and maintain the facility in conformance with the solid waste rules based on the provisions of a post-closure inspection, monitoring and maintenance plan approved by the department in the permit pursuant to (e) below.

(c) For the purposes of determining initial financial assurance requirements, the post-closure period for landfills receiving municipal solid waste and/or MSW ash shall be equal to 30 years from the date the complete capping system is installed.

(d) The initial post-closure period shall be subject to periodic adjustment by implementing the permit modification procedures in Env-Wm 306 and Env-Wm 315 as follows:

(1) In the event that post-closure monitoring data or other available information provides an indication that the required performance standards are unlikely to be achieved during the approved post-closure monitoring period:

- a. The permittee shall identify the cause in a report to the department; and
- b. Depending on the cause, the department shall adjust the post-closure monitoring period and/or require the permittee to implement remedial closure or post-closure work, pursuant to the permit modification procedures in Env-Wm 306; or

(2) In the event the permittee believes that post-closure monitoring data and other available information provides sufficient evidence that the required performance standards are achieved at the facility, the permittee may submit an application for permit modification pursuant to Env-Wm 315 to request an appropriate reduction in the post-closure period for the facility.

(e) A detailed post-closure inspection, monitoring and maintenance plan shall be developed and implemented by the permittee to assure compliance with Env-Wm 2507.03, Env-Wm 2507.04, and this section. The plan shall be a condition of the facility's permit when approved by the department.

(f) All facility systems shall be thoroughly inspected on a schedule that is initially the same as required of operating facilities in Env-Wm 2506.08.

(g) The permittee may request a decrease in the frequency of inspections based on a favorable comparison of the performance expectations and actual performance but in no case shall inspections occur less than semi-annually.

(h) Copies of the inspection reports shall be filed in accordance with Env-Wm 303 within 30 days of completing the inspection.

(i) Pursuant to Env-Wm 2805.14, the permittee shall file an annual report with the department including an assessment of whether facility is achieving the performance requirements in Env-Wm 2507.04.

(j) The permittee shall notify the department in accordance with Env-Wm 2805.07 when facility damage, malfunction or sub-standard performance occurs at the facility.

(k) Following completion of the capping system construction, the permittee shall file record drawings for the closed facility in accordance with Env-Wm 2804.07.

(l) The permittee shall attach notification to the property deed that a landfill exists on the property and cause the notification to be recorded at the registry of deeds in the county where the property is located.

(m) Proof of notification filing pursuant to (l) above shall be provided to the department by the permittee with the submission of record drawings pursuant to (k) above.

(n) Notification pursuant to (l) shall include the following information:

(1) A statement that a landfill exists on this property;

(2) Identification of the registry of deeds, book and page numbers where title to the property is recorded;

(3) Identification of the property tax map and lot numbers as identified by the political subdivision in which the facility is located;

(4) USGS coordinates for the landfill site;

(5) Description of the facility, including size, type of wastes received, type of liner if any and type of cap;

(6) Description of closure implemented and identification of the permit issued by the department under which closure occurred, including a statement that the permit might contain certain legal obligations regarding the site;

(7) A statement that post-closure use of the property shall not disturb the integrity of the final cover, liners, or any other components of the containment systems or the function of the monitoring systems unless approved by the department;

(8) A statement that any future change in use shall be subject to review and approval by the department pursuant to (o) below; and

(9) A statement that access shall be assured to department inspection personnel and the permittee for monitoring/maintenance purposes.

(o) The permittee shall obtain department approval, via the permit modification procedures in Env-Wm 315, for any post-closure activity at the site not specifically approved by the facility's permit.

(p) The permittee shall implement such repairs or remedial activities as necessary to assure compliance with the performance standards set forth in Env-Wm 2507.04.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; amd by #5297, eff 12-24-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

PART Env-Wm 2508 LANDFILL RECLAMATION

Env-Wm 2508.01 Applicability.

(a) The rules in this part shall apply, as specified in Env-Wm 101.02(c), to facilities where landfill reclamation activities occur.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; amd by #5297, eff 12-24-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2508.02 Approval Required.

(a) Landfill reclamation activities shall proceed only in accordance with approval granted in the form of a permit or permit modification.

(b) The information required by this part shall be submitted with the permit application or application for permit modification.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; amd by #5297, eff 12-24-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2508.03 Feasibility Study.

(a) The permittee shall conduct a feasibility study prior to any reclamation activities.

(b) Prior to conducting the feasibility study, a scope-of-work for the study shall be submitted to the department as an application for type I-B permit modification pursuant to Env-Wm 315, including:

(1) Provisions for a review of existing background data to include:

- a. Site inspections and personnel interviews;
- b. Operating history and waste receipt records; and
- c. Analytical data, engineering records and department records;

(2) A site plan showing the location of all proposed work areas;

(3) The proposed number and location of all borings, trenches and test pits;

(4) A description of all excavation and materials handling operations;

(5) A description of all material quantification methods, laboratory analyses and test burns which will be used to characterize and estimate the quantities of recyclables, soils, combustibles and other components;

(6) A description of project management responsibilities with a proposed work schedule;

(7) A contingency plan as described in Env-Wm 2508.05;

(8) If the facility is closed, a plan for the repair of any damage done to the capping system; and

(9) If the facility is lined, a plan for the protection of all existing landfill components including liners, leachate collection piping, gas recovery systems, storm water systems and other components as applicable.

(c) The feasibility study field investigation shall not be conducted unless approved by the department as a modification of the permit.

(d) Upon completion of the feasibility study field investigation, the permittee shall submit a report to the department which compiles and interprets the collected data, including the following:

- (1) The results of all sampling and analysis performed on excavated materials;
- (2) The thickness of solid waste fill including the logs of all test pits and test borings;
- (3) Information to characterize the composition and relative quantities of excavated materials, including recyclables, combustibles, soils and other components;
- (4) An evaluation of the suitability of the excavated materials for reuse or recycling, the need for further processing and the expected final disposition;
- (5) An assessment of potential landfill reclamation costs and potential landfill closure costs;
- (6) An assessment of the impacts associated with landfill reclamation; and
- (7) A determination if landfill reclamation is feasible at the facility.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; amd by #5297, eff 12-24-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2508.04 Landfill Reclamation Work Plan.

(a) If landfill reclamation is determined to be feasible in accordance with Env-Wm 2508.02, and landfill reclamation is to be undertaken, the permittee shall submit a landfill reclamation work plan to the department.

(b) The landfill reclamation work plan shall include the following:

- (1) A detailed plan for the management and control of odors, which specifically addresses measures to avoid the dispersion of offensive odors in residential areas and includes provisions for work stoppage in the event planned odor control measures fail;
- (2) A map showing the location of all inhabited dwellings within 2000 feet of the reclamation area and the direction of prevailing winds;
- (3) A site plan which details the proposed reclamation area and delineates in plan and cross-sectional view the depth of excavation, proximity to the liner and leachate collection system, if any, other landfill structures and components, and the direction the landfill reclamation will progress;
- (4) A description of the excavation and sorting procedures for all removed materials;
- (5) A contingency plan in accordance with Env-Wm 2508.05;
- (6) A description of all procedures, including quality assurance and quality control provisions, for processing, testing, storage, removal, transfer, use and disposal of excavated waste;
- (7) A storm water management and leachate management plan; and

- (8) The procedure for site clean-up and grading after the reclamation with detailed drawings depicting original and final grades.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6619-B, eff 10-29-97

Env-Wm 2508.05 Contingency Plan.

- (a) A contingency plan shall be submitted as part of any landfill reclamation work plan and feasibility study.
- (b) The contingency plan shall include the following:
- (1) A description of actions to be taken with respect to personnel safety, on-site personnel injury, fires, explosions, landfill gases, dust, odor, noise, vectors and excavation and release of hazardous substances or toxic materials;
 - (2) Hazard evaluation and protection from potential hazards, including engineering controls, personal protection equipment and air monitoring techniques;
 - (3) Designation of exclusion, decontamination and support zones, decontamination procedures, on-site communication procedures, emergency procedures and access control; and
 - (4) Designation of a qualified, full-time site health and safety coordinator.

Source. #6619-B, eff 10-29-97

PART Env-Wm 2509 PERMIT-BY-NOTIFICATION LANDFILLS

Env-Wm 2509.01 Purpose. The purpose of the rules in this part is to identify types of landfills eligible for a permit-by-notification pursuant to Env-Wm 311.

Source. #6619-B, eff 10-29-97

Env-Wm 2509.02 Off-site Masonry Debris Landfill. A landfill for the burial of asphalt and masonry type debris from off-site locations shall be eligible for a permit-by-notification pursuant to Env-Wm 311, provided the facility meets each of the following requirements:

- (a) The facility shall comply with Env-Wm 2900;
- (b) The facility shall receive and bury the following waste types only:
- (1) Fully cured concrete, brick, cement and/or other inert masonry material, substantially free of protruding reinforcing materials; and/or
 - (2) Fully cured asphalt which is not ground or pulverized;
- (c) The buried waste shall not include any materials or substances that have the potential to leach contaminants to groundwater or surface water or to emit pollutants to the air, including lead paint, asbestos and chemicals;
- (d) If the permittee is a private entity:
- (1) The waste shall be received only from a single source;
 - (2) The quantity of buried waste shall not exceed 1300 cubic yards; and
 - (3) The active life of the facility shall be no longer than 90 days;

(e) If the permittee is a government agency or unit or a political subdivision of the state and will have an active life longer than 90 days:

(1) The facility shall be located on publicly owned land controlled by the permittee; and

(2) The facility shall be located no less than 100 feet from property lines;

(f) The permittee shall attach notification to the property deed in accordance with Env-Wm 2507.05; and

(g) The facility shall commence operations prior to April 1, 1999.

Source. #6619-B, eff 10-29-97; ss by #6894-B, eff 12-1-98

Env-Wm 2509.03 Off-site Stump Dump.

Source. #6619-B, eff 10-29-97; rpld by #7225, eff 3-31-00

PART Env-Wm 2510 PERMIT-EXEMPT LANDFILLS

Env-Wm 2510.01 Purpose. The purpose of the rules in this part is to identify landfills which are permit-exempt, pursuant to Env-Wm 302.03.

Source. #6619-B, eff 10-29-97

Env-Wm 2510.02 General Exemption Provisions.

(a) The landfills described in this part shall be exempt from obtaining a permit, subject to the requirements in Env-Wm 2510.03.

(b) A permit exemption shall not affect a person's obligation to obtain all requisite federal, state or local permits, licenses or approvals, or to comply with all other applicable federal, state, district or local permits, ordinances, laws or approvals or conditions pertaining to the permit-exempt activities.

Source. #6619-B, eff 10-29-97

Env-Wm 2510.03 Exemption Conditions. All permit-exempt landfills identified in this part shall comply with the following requirements:

(a) A permit-exempt landfill shall not be located on property that is subject to any ongoing enforcement action by the department, unless approved by the department as part of the enforcement action.

(b) A permit-exempt landfill shall not adversely affect the operation and closure of any existing facility.

(c) The owner of the property on which the facility is located shall be designated as the permittee and subject to all obligations related thereto.

(d) At all times during facility operations, the permittee shall maintain cover materials at the facility site in a sufficient quantity as to comply with the applicable cover requirements.

(e) During the active life of the facility, the permittee shall control access to the facility in a manner as to prevent unlawful dumping.

(f) The permittee shall close the facility in conformance with Env-Wm 2706 as follows:

(1) No less than 2 feet of clean, compacted soil, and more when specified by the rules in this part, shall be placed as final cover over all landfilled waste;

(2) Final cover shall be properly graded, seeded and mulched to produce and sustain vegetative growth, or otherwise stabilized to prevent erosion;

(3) The permittee shall regularly inspect the facility to assure that the cover materials maintain their integrity, that voids and sink holes do not develop, and that the site is otherwise protective of the environment, public health and safety; and

(4) The permittee shall implement repairs and/or take other remedial action as necessary to achieve and maintain compliance therewith;

(g) The facility shall comply with all other requirements specified in Env-Wm 2700 and, depending on the type of waste managed at the facility, Env-Wm 2600; and

(h) All waste managed at the facility shall be actively managed.

Source. #6619-B, eff 10-29-97; amd by #6894-B, eff 12-1-98

Env-Wm 2510.04 On-site Asphalt and Masonry Debris Landfill. Subject to Env-Wm 2510.03, no permit shall be required to bury asphalt and masonry type debris at the waste generation site, provided that:

(a) The facility shall receive and bury the following waste types only:

(1) Fully cured asphalt, concrete, brick, cement or other inert masonry materials substantially free of protruding reinforcing materials; and/or

(2) Fully cured asphalt which is not ground or pulverized;

(b) The buried waste shall not include any materials or substances that have the potential to leach contaminants to groundwater or surface water or to emit pollutants to the air, including lead paint, asbestos and chemicals;

(c) The waste shall be buried in a manner as to preclude the development of sink holes and to otherwise be protective of the environment, public health and safety;

(d) The waste shall be buried at least 75 feet from all water supply wells and surface waters and at least 4 feet above the seasonal high water table and bedrock; and

(e) The facility shall commence operations prior to April 1, 1999.

Source. #6619-B, eff 10-29-97; ss by #6894-B, eff 12-1-98

Env-Wm 2510.05 Leachfield Repair Residuals Landfill. Subject to Env-Wm 2510.03, no permit shall be required to bury waste soil and stone from the repair or replacement of existing leaching fields regulated under Env-Ws 1000, provided that:

(a) The burial location shall be on the same property as the waste generation site;

(b) The buried waste shall be placed at least 4 feet above the seasonal high water table and bedrock; and

(c) The burial location shall meet the minimum separation distances for leach bed trenches required in Env-Ws 1008.

Source. #6619-B, eff 10-29-97; amd by #6894-B, eff 12-1-98

Env-Wm 2510.06 Abandoned Underground Structures. Subject to Env-Wm 2510.03, no permit shall be required to bury in place existing abandoned underground structures, such as foundation walls, footings, pipes and culverts, provided that:

(a) The abandoned structure shall not include:

- (1) Materials or substances that have the potential to leach contaminants to groundwater or surface water or to emit pollutants to the air;
- (2) Treated wood;
- (3) Insulation; and
- (4) General construction and demolition debris;

(b) The abandoned structure shall not be a structure which is required by other rules or regulations to be removed;

(c) The structure shall be buried in a manner as to preclude the development of sink holes and to otherwise be protective of the environment, public health and safety; and

(d) The material used to fill and cover the structure shall not be a waste.

Source. #6619-B, eff 10-29-97

Env-Wm 2510.07 Incidental Animal Burial. Subject to Env-Wm 2510.03, no permit shall be required to bury a deceased animal, provided that:

(a) The person controlling the land where the animal is buried shall agree to the location of the grave site;

(b) The grave shall be covered with a sufficient quantity and depth of soil as to avoid disturbance of the burial site by other animals; and

(c) The grave site shall not constitute a pet cemetery as otherwise regulated under the provisions of Env-Wm 2510.08.

Source. #6619-B, eff 10-29-97

Env-Wm 2510.08 Pet Cemeteries. Subject to Env-Wm 2510.03, no permit shall be required to bury animal carcasses not regulated under Env-Wm 2604.01(e) and not exempt pursuant to Env-Wm 2510.07, provided that:

(a) The location shall be at least 100 feet from any property boundary or surface water, 200 feet from a private or community water supply, and 400 feet from a municipal water supply;

(b) The buried material shall be placed at least 4 feet above the seasonal high water table and bedrock;

(c) The carcasses shall be covered with at least 3 feet of clean fill immediately following placement in the ground; and

(d) Written notification shall be provided to the state veterinarian in instances where 10 or more carcasses are buried.

Source. #6619-B, eff 10-29-97

Env-Wm 2510.09 Off-site Stump Dump. Subject to Env-Wm 2510.03, no permit shall be required to bury stumps and tree parts thereof received from off-site locations, provided that:

(a) The burial site is:

- (1) At least 75 feet from any water supply well;

- (2) At least 25 feet from any property line; and
- (3) At least 4 feet above the seasonal high groundwater table;
- (b) The stumps and tree parts thereof are buried in a manner as to preclude the development of sink holes and erosion of cover materials, and to otherwise be protective of the environment, public health and safety; and
- (c) A notation is recorded in the chain of title for the property on which the burial site is located, to include the following information:
 - (1) A statement that the property has been used for the disposal of stumps and tree parts thereof;
 - (2) The date the disposal activity took place;
 - (3) The location of the burial area(s), with sufficient specificity as to allow an independent third party to locate the area(s); and
 - (4) The estimated quantity of waste disposed on the property.

Source. #7225, eff 3-31-00

CHAPTER Env-Wm 2600 MANAGEMENT OF CERTAIN WASTES

Statutory Authority: RSA 149-M:7

PART Env-Wm 2601 ASBESTOS

Env-Wm 2601.01 Applicability.

(a) The rules in this part shall apply, as specified in Env-Wm 101.02(c), to the management of asbestos waste, both friable and non-friable.

(b) The rules in this part shall apply to the management of material having the potential to be asbestos waste based on its visual appearance, form, function and other available information, unless testing in accordance with the analytical procedures in 40 CFR 61 determines the waste to be non-asbestos based.

(c) The rules in this part shall apply to wastes and materials that are combined or mixed with asbestos waste.

(d) The rules of this part shall apply from the point of waste origination to the point of waste disposal.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2601.02 Collection, Storage and Transfer Requirements.

(a) Collection, storage and transfer of asbestos waste shall be accomplished in a manner as to prevent the release of asbestos fibers to the environment, and in conformance with the requirements of Env-Wm 2100, 40 CFR 61, 29 CFR 1910, 29 CFR 1926, He-P 5000, Env-A 1800 and (b) through (f) below.

(b) Collected asbestos waste that is friable or exhibits friable characteristics shall be processed or treated in accordance with Env-Wm 2601.03 prior to storage, transfer or disposal.

(c) Collected asbestos waste shall be packaged and labeled in accordance with Env-Wm 2601.06 prior to storage or transfer.

(d) Asbestos waste shall be stored only in areas:

- (1) Restricted from public access;
- (2) Protected from the elements, specifically including wind and water;
- (3) Regularly monitored to assure site security; and
- (4) Conspicuously posted with legible signs imprinted with the following:
 - a. "Danger";
 - b. "Asbestos waste storage area";
 - c. "Dust, cancer and lung disease hazard"; and
 - d. "Authorized personnel only."

(e) The permittee shall notify local fire officials as to the establishment and location of an asbestos storage facility requiring a standard permit to alert responding fire personnel of the potential hazard in the event of a fire.

(f) Asbestos waste shall be transferred only to facilities authorized to receive asbestos waste.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2601.03 Processing and Treatment Requirements.

(a) Asbestos waste shall be processed or treated in accordance with the requirements of Env-Wm 2200 and this section, and in accordance with other applicable state and federal regulations including 40 CFR 61, 29 CFR 1910 and 1926, Env-A 1800 and He-P 5000.

(b) Prior to packaging, storage or disposal, asbestos waste that is friable or exhibits friable characteristics shall be treated to limit the potential for release of asbestos fibers using one or more of the following methods in accordance with 40 CFR 61 and Env-A 1800:

(1) Spray with water or amended water;

(2) Cover with an encapsulant or sealant, using an airless or electrostatic sprayer if the material is hydrophobic; or

(3) Another method determined pursuant to Env-A 1800 to be functionally equivalent to the above, based on information submitted by the person responsible for the treatment.

(c) Facilities that process or treat asbestos waste shall collect, store and transfer the waste in accordance with the requirements of Env-Wm 2601.02.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2601.04 Disposal Requirements.

(a) Asbestos waste shall be landfilled at authorized facilities only.

(b) Asbestos waste that is friable or exhibits friable characteristics shall not be landfilled prior to being:

(1) Treated in accordance with Env-Wm 2601.03; and

(2) Packaged and labeled in accordance with Env-Wm 2601.06.

(c) Facilities which landfill asbestos waste shall be equipped and staffed to manage the asbestos in conformance with the solid waste rules, including:

(1) Personnel protective equipment pursuant to Env-Wm 2601.08(a);

(2) Staff trained pursuant to Env-Wm 2601.08(a);

(3) Equipment for wetting asbestos; and

(4) Decontamination equipment.

(d) Prior to receiving asbestos waste, the landfill operator shall prepare a disposal area within the permitted footprint to allow the asbestos waste to be placed and immediately covered without release of asbestos fibers to the air and without direct contact between the asbestos waste and personnel and equipment.

(e) Containers of asbestos waste shall be unloaded at landfills in such a manner as to prevent:

- (1) Release of asbestos fibers;
- (2) Personal exposure to asbestos fibers; and
- (3) Direct contact with asbestos fibers by personnel and equipment.

(f) Non-rigid containers which have been exposed to asbestos waste shall be disposed with the asbestos waste.

(g) Following placement in the disposal area, asbestos waste shall be immediately covered with at least 3 feet of non-asbestos waste or 18 inches of soil.

(h) An asbestos waste disposal facility shall compile records pursuant to 40 CFR 61, to include a map or diagram of the disposal area identifying the location, depth, area and quantity of asbestos waste landfilled at the facility.

(i) Records specified by (h) above shall be maintained in accordance with Env-Wm 2805.06.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2601.05 Reuse Requirements and Limitations.

(a) Asbestos waste shall not be reused.

(b) Reuse of containers used for storage and/or transportation of asbestos waste shall comply with Env-Wm 2601.06 (d) through (f).

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2601.06 Transportation, Packaging and Labeling Requirements.

(a) Prior to storage, transportation or disposal, asbestos waste shall be packaged and labeled in accordance with state rules and federal regulation, including as applicable, 40 CFR 61, 29 CFR 1910, 29 CFR 1926, Env-A 1800 and this section.

(b) Prior to being packaged, asbestos waste that is friable or exhibits friable characteristics shall be treated in accordance with Env-Wm 2601.03.

(c) Bags used for disposal of friable asbestos waste shall be made of at least 6 mil polyethylene or a functional equivalent.

(d) Bags identified in (c) above shall not be reused.

(e) Containers receiving bulk unwrapped asbestos waste shall be lined with at least 20 mil polyethylene or its functional equivalent.

(f) The liner material identified in (e) above shall not be reused.

(g) A waste shipment record shall accompany all asbestos waste when transported, pursuant to the provisions of 40 CFR 61.

(h) Asbestos waste transporters shall comply with United States Department of Transportation regulations and New Hampshire department of safety rules, as applicable.

(i) Asbestos waste transporters shall notify the receiving landfill prior to delivering a shipment of asbestos waste, so as to provide the landfill operator with the opportunity to properly prepare the disposal area pursuant to Env-Wm 2601.04.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2601.07 Testing and Reporting Requirements.

(a) If during transportation a person spills one pound or more of asbestos waste that is friable or exhibits friable characteristics, the person shall immediately report the incident by telephone to the following agencies and entities:

- (1) The department's air resources division and waste management division;
- (2) The hazardous material team at the department of safety; and
- (3) The national response center.

(b) The analytical testing procedures specified in 40 CFR 61 shall be used to determine whether a waste is asbestos waste.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2601.08 Other Requirements.

(a) Personnel handling asbestos waste shall be trained and equipped as required by 29 CFR 1910 and He-P 5000.

(b) Asbestos waste shall not be intentionally combined or mixed with other waste types prior to disposal.

(c) Asbestos waste shall not be incinerated.

(d) Asbestos waste and waste mixtures shall not be composted.

(e) Asbestos waste and waste mixtures shall not be land applied.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

PART Env-Wm 2602 ASH

Env-Wm 2602.01 Applicability.

(a) Except as provided in (b) and (c) below, the rules in this part shall apply, as specified in Env-Wm 101.02(c), to management of bottom ash and fly ash from the point of origin to the point of final disposal.

(b) The rules in this part shall not apply to:

- (1) Ash generated by private residences from the combustion of wood or fossil fuel;
- (2) Ash from crematoriums;
- (3) Wood ash certified for distribution and use pursuant to Env-Wm 3400, provided it is distributed and used in accordance with the certification; and
- (4) Boiler slag from the combustion of coal managed in accordance with Env-Wm 302.03(b)(9).

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2602.02 Collection, Storage and Transfer Requirements.

(a) Collection, storage and transfer of ash shall comply with the requirements of Env-Wm 2100 and this section.

(b) Ash shall be collected and stored in containers in a manner which:

- (1) Avoids the dispersion of ash residue, including particulates;
- (2) Is fire safe;
- (3) Prevents rain water infiltration; and
- (4) Collects and controls the free liquid that drains from the ash, if the ash is quenched or treated with applied liquids.

(c) Prior to transfer, ash generators shall comply with the hazardous waste determination requirements in Env-Wm 502 and thereby assure proper management of the ash as follows:

- (1) If the ash is determined to be a hazardous waste, it shall be managed as a hazardous waste in accordance with all applicable state rules and federal hazardous waste regulations; and
- (2) If the ash is determined to be non-hazardous, it shall be managed as a solid waste in accordance with this part.

(d) Ash shall not be transferred from the generator's collection area until cooled sufficiently as to eliminate the potential to cause fire and burn injury.

(e) The transfer of ash from one location to another shall comply with the requirements of Env-Wm 2602.06.

(f) Prior to unloading, ash shipments received by a collection, storage and transfer facility shall be inspected by the receiving facility to determine whether the load is hot.

(g) Hot ash shall not be deposited at a receiving facility where it might start a fire and/or cause burn injury.

(h) Hot ash shall be segregated from combustible materials, contained and extinguished.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2602.03 Processing and Treatment Requirements.

(a) Processing and treatment of ash shall comply with the requirements of Env-Wm 2200 and this section.

(b) Processing and treatment of ash shall be carried out in a manner which:

(1) Avoids the dispersion of ash residue, including particulates;

(2) Is fire safe;

(3) Prevents rainwater infiltration; and

(4) Collects and controls the free liquid that drains from the ash, if quenched or treated with applied liquids.

(c) Prior to unloading, ash shipments received by a processing or treatment facility shall be inspected by the receiving facility to determine whether the load is hot.

(d) Hot ash shall not be deposited at a receiving facility where it might start a fire and/or cause burn injury

(e) Hot ash shall be segregated from combustible materials, contained and extinguished.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2602.04 Disposal Requirements.

(a) Ash shall be disposed only at authorized facilities.

(b) If disposed in a New Hampshire landfill, the facility shall be a lined facility meeting the requirements of Env-Wm 2500 as follows:

(1) Ash from the combustion of municipal solid waste shall be disposed in double lined facilities only;

(2) Ash from the combustion of coal may be disposed in either a double lined facility or single lined facility as provided by (3) below; and

(3) Coal ash shall be disposed in a single lined facility only if:

a. The facility shall be a monofill; and

b. The required groundwater monitoring system shall be designed to serve as a leak detection system.

(c) Prior to unloading, ash shipments received by a New Hampshire landfill shall be inspected by the receiving facility to determine whether the load is hot.

(d) Hot ash shall not be deposited where it might start a fire or cause burn injury.

(e) Hot ash shall be segregated from combustible materials, contained and extinguished.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2602.05 Reuse Requirements and Limitations. Ash and ash-derived products shall be certified in accordance with Env-Wm 3200 prior to distribution and use in New Hampshire.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2602.06 Transportation, Packaging and Labeling Requirements.

(a) Ash shall be transported in a manner which shall prevent dispersion of ash residue, including particulates.

(b) Ash shall not be transported in or through New Hampshire unless the generator has first completed a hazardous waste determination in accordance with Env-Wm 502.

(c) Ash shall not be transported unless cooled sufficiently to eliminate the potential for fire and/or burn injury while in-transit and following delivery.

(d) Ash that is quenched or contains free liquid shall be transported in leak tight containers or shall be sufficiently dry prior to transport as to preclude the discharge of liquids from the transportation vehicle while in-transit.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2602.07 Testing and Reporting Requirements.

(a) The ash generator shall comply with the hazardous waste determination requirements in Env-Wm 502 by developing and implementing a quality assurance/ quality control (QA/QC) plan for ash sampling and analysis.

(b) The QA/QC plan for ash sampling and analysis shall specify:

(1) The procedures by which representative samples of ash will be obtained;

(2) The contaminants and parameters for which testing will be conducted;

(3) The data analysis necessary to demonstrate the level of precision and accuracy are acceptable; and

(4) The testing methods.

(c) Ash testing results and QA/QC plan information shall be maintained by the ash generator and made available to department for inspection pursuant to Env-Wm 3700 and the hazardous waste rules.

Source. #6619-B, eff 10-29-97; ss by #6894-B, eff 12-1-98

Env-Wm 2602.08 Other Requirements.

(a) A New Hampshire facility that receives ash generated in another state shall obtain from the ash generator copies of the required hazardous waste determination.

(b) Information pursuant to (a) above shall be maintained by the permittee as part of the facility operating records pursuant to Env-Wm 2805.06.

Source. #6619-B, eff 10-29-97

PART Env-Wm 2603 CONTAMINATED SOILS AND MEDIA

Env-Wm 2603.01 Applicability.

(a) Except as provided by (b) below, the rules in this part shall apply, as specified in Env-Wm 101.02(c), to facilities that manage soils and absorbent media contaminated with liquids not regulated as hazardous waste, including certain oils, greases, fats, tars and petroleum products.

(b) The rules in this part shall not apply to soils contaminated with oil and regulated pursuant to Env-Ws 412, namely oil contaminated soils managed at the waste generation site.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91, EXPIRED: 7-1-97

New. #6619-B, eff 10-29-97

Env-Wm 2603.02 Collection, Storage and Transfer Requirements.

(a) Collection, storage and transfer of contaminated soils and absorbent media shall comply with the requirements of Env-Wm 2100 and this section.

(b) Contaminated soils and absorbent media shall be collected and stored in leak tight containers or be underlain by impermeable surfaces or by other means to prevent the discharge of contaminants to groundwater and surrounding soils.

(c) Contaminated soils and absorbent media shall be stored under cover in a manner that protects the waste from exposure to precipitation or by a method that collects and manages all leachate generated.

(d) Contaminated soils and absorbent media shall be stored in accordance with applicable air and water quality rules and regulations.

(e) Prior to transfer, the generator shall comply with the testing requirements in Env-Wm 2603.07 to assure proper management of the contaminated soils or absorbent media as follows:

(1) If the contaminated soil or absorbent media is determined to be a hazardous waste, it shall be managed as a hazardous waste in accordance with all state rules and federal regulations for managing hazardous waste; and

(2) If the contaminated soil or absorbent media is determined to be non-hazardous, it shall be managed in accordance with the solid waste rules.

(f) Prior to receiving contaminated soils or absorbent media from off-site locations, a facility shall obtain documentation from the generator demonstrating compliance with (e) above.

(g) A facility that collects contaminated soils or absorbent media from off-site locations shall inspect the waste upon receipt and verify that the waste is the same waste as characterized by the generator in conformance with Env-Wm 2603.07.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91, EXPIRED: 7-1-97

New. #6619-B, eff 10-29-97

Env-Wm 2603.03 Processing and Treatment Requirements.

(a) Processing and treatment of contaminated soils and absorbent media shall comply with the requirements of Env-Wm 2200 and this section.

(b) A facility that processes or treats contaminated soils and media shall employ technologies demonstrated to successfully manage the specific contaminants present in the soil or media.

(c) A facility that processes or treats contaminated soils or absorbent media shall comply with the waste collection, storage and transfer requirements in Env-Wm 2603.02.

(d) Contaminated soils and absorbent media shall be processed or treated in compliance with applicable air and water quality rules and regulations.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91, EXPIRED: 7-1-97

New. #6619-B, eff 10-29-97

Env-Wm 2603.04 Disposal Requirements.

(a) The disposal of contaminated soils and absorbent media shall occur only at authorized facilities.

(b) Prior to disposal, contaminated soils and absorbent media shall be tested in accordance with the requirements of Env-Wm 2603.07 and the receiving facility's permit.

(c) Contaminated soil and absorbent media from out-of-state shall not be disposed in a NH landfill if it fails the disposal criteria of its state of origin.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91, EXPIRED: 7-1-97

New. #6619-B, eff 10-29-97

Env-Wm 2603.05 Reuse Requirements and Limitations.

(a) Contaminated soils and media, if reused for purposes other than those provided in (b) and (c) below, shall not be distributed and used except in accordance with certification pursuant to Env-Wm 3200.

(b) Contaminated soil and absorbent media may be used as daily landfill cover at facilities permitted to dispose of the contaminated soil or absorbent media, provided that:

(1) When used at an unlined landfill, the contaminant concentrations shall neither exceed:

- a. The concentrations specified in Table 2600-1; nor
 - b. The concentrations calculated using the methods described in ASTM-E 1739-95 entitled "Guide to Risk based Corrective Action Applied to Petroleum Release Sites," dated November 1995, for all constituents listed in Table 2600-1 and all other contaminants reasonably thought to be present based on generator knowledge and history of the site of generation;
- (2) The material shall meet the requirements for alternative daily cover specified in Env-Wm 2506.03; and
- (3) The material shall not be stored or otherwise placed outside the active footprint of the facility.
- (c) Contaminated soil and absorbent media may be used as unspecified fill material to achieve final grades prior to closure at unlined landfills provided the contaminant levels in the material shall be below the levels specified in (b)(1) above.
- (d) Contaminated soil, if distributed and used as soil for purposes other than those provided in (b) and (c) above, shall be certified for distribution and use pursuant to Env-Wm 3200 based on the following:
- (1) The concentration of contaminants in the soil shall be no greater than the concentrations specified in (b)(1) above, except:
 - a. Heavy metals shall not exceed the concentrations specified in Env-Ws 800; and
 - b. The concentration of total petroleum hydrocarbons in the soil shall be less than 100 parts per million;
 - (2) The soil shall not be distributed or used in any:
 - a. Residential applications;
 - b. Playground applications;
 - c. Fill in a 100-year floodplain or wetland;
 - d. Application to land used for the production of crops for direct human consumption;
 - e. Application within a recharge area of any sole source drinking water supply; or
 - f. Within 100 feet from any surface water; and
 - (3) The distributor shall comply with the product disclosure requirements in Env-Wm 3202.04 and the recordkeeping requirements in Env-Wm 2205.07(f).

Table 2600-1

Maximum Contaminant Concentrations	
Regulated Contaminant	Standard
Acenaphthene	1,000 mg/kg
Acenaphthylene	1,000 mg/kg
Anthracene	1,000 mg/kg
Benzene	0.3 mg/kg

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Benzo(a)anthracene	0.7 mg/kg
Benzo(a)pyrene	0.7 mg/kg
Benzo(b)fluoranthene	7 mg/kg
Benzo(k)fluoranthene	7 mg/kg
Cadmium	32 mg/kg
Chromium (III)	1,000 mg/kg
Chromium (VI)	170 mg/kg
Chrysene	70 mg/kg
Dibenzo(a,h)anthracene	0.7 mg/kg
Dichloroethane, 1,2-	0.09 mg/kg
Ethylbenzene	90 mg/kg
Fluoranthene	810 mg/kg
Fluorene	510 mg/kg
Indeno(1,2,3-cd)pyrene	0.7 mg/kg
Isopropylbenzene	23 mg/kg
Lead	400 mg/kg
Mercury (inorganic)	4 mg/kg
Methylnaphthalene, 2-	150 mg/kg
Methyl-t-butyl ether	3 mg/kg
Naphthalene	3 mg/kg
Nickel	1,000 mg/kg
Selenium	270 mg/kg
Silver	170 mg/kg
Toluene	100 mg/kg
Xylene	810 mg/kg
Zinc	1,000 mg/kg

Maximum Contaminant Concentrations	
Regulated Contaminant	Standard
Alkylbenzenes Butylbenzene, n- Butylbenzene, sec- Butylbenzene, tert- Isopropyl toluene, 4- Propylbenzene, n- Trimethylbenzene, 1,2,4- Trimethylbenzene, 1,3,5-	Total 61 mg/kg
Total Petroleum Hydrocarbons	10,000 mg/kg

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91, EXPIRED: 7-1-97

New. #6619-B, eff 10-29-97

Env-Wm 2603.06 Transportation Requirements.

- (a) Contaminated soil and absorbent media shall be transported using a standard bill of lading.
- (b) Contaminated soil and absorbent media shall be transported in a manner which shall prevent dispersion of the waste to the air, ground or waterways.
- (c) Contaminated soil and absorbent media shall not be transported from the site of generation prior to completing a hazardous waste determination pursuant to Env-Wm 502.

Source. #6619-B, eff 10-29-97

Env-Wm 2603.07 Testing and Reporting Requirements.

- (a) The generator of contaminated soil or absorbent media shall comply with the hazardous waste determination requirements in Env-Wm 502 and the other testing requirements in Env-Ws 412, as applicable, prior to transferring the waste off-site if generated in New Hampshire or prior to transporting into New Hampshire if generated out-of-state.
- (b) The generator shall produce records of testing pursuant to (a) above for inspection by the department pursuant to Env-Wm 3700.

Source. #6619-B, eff 10-29-97

PART Env-Wm 2604 INFECTIOUS WASTE

Env-Wm 2604.01 Applicability.

(a) The rules in this part shall apply, as specified in Env-Wm 101.02(c), to management of infectious waste and treated infectious waste which is not ash residue, from the point of origin to the point of final disposal, including the following:

- (1) Cultures and stocks of infectious agents and associated biologicals, including:
 - a. Cultures and stocks of infectious agents from research and industrial laboratories;
 - b. Wastes from the production of biologicals, discarded live and attenuated vaccines; and
 - c. Culture dishes and devices used to transfer, inoculate and mix cultures;
- (2) Pathological wastes, including tissues, organs, and body parts that were removed during surgery or autopsy;
- (3) Waste human blood and products of blood, including:
 - a. Serum, plasma and other blood components;
 - b. Containers contaminated with a. above which were used or intended for use in either patient care, testing and laboratory analysis or the development of pharmaceuticals; and
 - c. Items saturated and/or dripping with human blood or items that were saturated and/or dripping with human blood that are now caked with dried human blood or blood components;
- (4) Sharps that have been used in human or animal patient care or in medical, research, or industrial laboratories, including hypodermic needles, syringes, pasteur pipettes, broken glass and scalpel blades;

- (5) Contaminated animal carcasses, body parts, and bedding of animals that were exposed to infectious agents during research, production of biologicals, or testing of pharmaceuticals;
- (6) Wastes from human or animal patient care, surgery or autopsy that were in contact with infectious agents, including soiled dressings, sponges, drapes, lavage tubes, drainage sets, underpads, and surgical gloves;
- (7) Laboratory wastes from medical, pathological, pharmaceutical, or other research, commercial or industrial laboratories that were in contact with infectious agents, including slides and cover slips, disposable gloves, laboratory coats, and aprons;
- (8) Dialysis wastes that were in contact with the blood of patients undergoing hemodialysis, including contaminated disposable equipment and supplies such as tubing, filters, disposable sheets, towels, gloves, aprons, and laboratory coats;
- (9) Discarded medical equipment and parts that were in contact with infectious agents;
- (10) Biological waste and discarded materials contaminated with blood, excretion, exudates or secretion from humans or animals who are isolated to protect others from communicable diseases;
- (11) Any discarded preparations made from genetically altered living organisms and their products; and
- (12) Such other waste material that results from the administration of medical care to a patient whether human or animal by a health care provider and is found by the director in consultation with the division of public health services or state veterinarian to pose a threat to human health or the environment due to its infectious nature.

(b) The rules in this part shall not apply to the following types of waste:

- (1) Gloves, gowns, underpads or any other materials that come in contact with patients, but not saturated with blood, body fluids or secretions, through routine examination or patient care;
- (2) Animal carcasses not included in (a)(5) above; and
- (3) Household infectious waste, provided that:
 - a. Sharps shall be enclosed inside rigid, puncture-resistant containers;
 - b. Containers encasing sharps shall be sealed and labeled "not for recycling"; and
 - c. The waste shall be disposed at an authorized facility only.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2604.02 Collection, Storage and Transfer Requirements.

(a) Collection, storage and transfer of infectious waste shall comply with the requirements of Env-Wm 2100 and this section.

(b) The waste shall be stored in a pre-designated location, protected from water, rain and wind.

(c) Storage containers and packaging shall be labeled conspicuously in a legible manner with the words "infectious waste," or "biohazard waste," or with the universal biohazard symbol.

(d) Waste stored at generator facilities shall be maintained in a nonputrescent state, using refrigeration when necessary.

(e) Waste shall not be stored at room temperatures in excess of 72 hours.

(f) Outdoor storage areas containing the waste, such as dumpsters, sheds, tractor trailers, or other storage areas, shall be locked to prevent unauthorized access.

(g) Access to on-site storage areas shall be limited to authorized persons.

(h) The waste shall be stored in a manner that shall provide protection from animals and shall not provide a breeding place or a food source for insects or rodents.

(i) Storage containers and packaging shall be of sufficient structural integrity to ensure that the waste shall not be released to the environment during storage.

(j) The contents of damaged or ruptured containers shall be re-packaged.

(k) Infectious waste shall be transferred by the generator to authorized facilities only.

(l) Facilities which receive infectious waste from off-site generators shall not store the waste in excess of 7 days from date of receipt.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; amd by #5297, eff 12-24-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2604.03 Processing and Treatment Requirements.

(a) Except as noted in Env-Wm 2604.08, the generator of infectious waste shall assure that the waste is treated at an authorized facility to achieve high-level disinfection plus a 4 log 10 reduction of *Bacillus subtilis* or *Bacillus stearothermophilus*.

(b) Facilities that process or treat infectious waste in New Hampshire, including generator facilities, shall meet the requirements of (a) above in conformance with: requirements of Env-Wm 2200 and the following:

(1) Env-Wm 2200;

(2) All infectious waste managed by the facility shall be collected and stored as specified in Env-Wm 2604.02, pending treatment in accordance with (a) above;

(3) If the facility processes or treats infectious waste by methods other than incineration, the efficacy of the processing or treatment method shall be demonstrated by testing as specified in Env-Wm 2604.07; and

(4) If the facility is an incinerator that treats the infectious waste by combustion, the facility shall meet the requirements of Env-Wm 2400.

(c) Infectious waste treated under (a) above shall not be combined or mixed with other waste prior to disposal, unless authorized by the receiving disposal facility.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; amd by #5297, eff 12-24-91; ss by #6619-B, eff 10-29-97

Env-Wm 2604.04 Disposal Requirements.

- (a) Infectious waste shall not be landfilled in New Hampshire unless treated to achieve the standard specified in Env-Wm 2604.03(a).
- (b) Treated infectious waste shall be disposed at authorized facilities only.
- (c) Notification shall be given by the transporter to the receiving facility prior to the disposal of treated infectious waste.
- (d) Liquid infectious waste may be disposed via a sanitary sewer, subject to the provisions of local sewer ordinances and regulations, only if the receiving wastewater treatment facility includes secondary treatment.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2604.05 Reuse Requirements and Limitations.

- (a) Infectious waste shall not be reused or certified for distribution and use pursuant to Env-Wm 3200, except as provided in (b) below.
- (b) Materials or equipment contaminated with infectious waste, for example surgical equipment, maintenance carts, bedding, waste containers and the like, may be salvaged and reused in-kind pursuant to Env-Wm 3203.04, subject to the following requirements:
 - (1) If reused within the generating facility, the materials and equipment shall be cleaned and disinfected prior to reuse to achieve the standards for disinfection prescribed by the facility's internal management protocol; and
 - (2) If sent off-site for reuse, the materials and equipment shall be cleaned and disinfected prior to leaving the generating facility to achieve at least the level of treatment specified in Env-Wm 2604.03(a).

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2604.06 Transportation, Packaging and Labeling Requirements.

- (a) Infectious waste transported off-site for treatment prior to disposal shall be transported in conformance with the United States department of transportation hazardous materials regulations as provided in 49 CFR 171-180 or as specified in (b) below.
- (b) The transportation of infectious waste not subject to 49 CFR 171-180 shall be subject to the following:
 - (1) Sharps as described in Env-Wm 2604.01(a)(4) shall be segregated and encased inside rigid, puncture-resistant containers;

(2) Infectious waste and sharps containers shall be placed in a sealed nonpermeable 3 mil polyethylene bag or equivalent, which is itself placed in a second bag of similar construction and sealed; and

(3) The outermost container or package shall be labeled with the following:

a. Clear markings indicating the contents which shall include the words "Infectious waste," or "Biohazard waste" or the universal biohazard symbol; and

b. The name, address and telephone number of the generator and transporter.

(c) Transporters shall notify the receiving facility prior to delivering infectious waste to a New Hampshire landfill.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2604.07 Testing and Reporting Requirements. Facilities, including generator facilities, which treat infectious waste by methods other than incineration shall be subject to the following:

(a) Quality assurance/ quality control efficacy testing shall be performed during initial facility operations to verify facility operating procedures meet the requirements of Env-Wm 2604.03(a);

(b) Following verification as specified in (a) above, the facility shall perform quality assurance/quality control efficacy testing no less than 4 times yearly, to demonstrate compliance with Env-Wm 2604.03(a); and

(c) The facility shall maintain the records of quality assurance/quality control efficacy testing for a minimum of 3 years.

Source. #6619-B, eff 10-29-97

Env-Wm 2604.08 Other Requirements. Limbs and recognizable organs, excluding teeth and contiguous gum tissue, shall be disposed by incineration or interment.

Source. #6619-B, eff 10-29-97

PART Env-Wm 2605 TIRES

Env-Wm 2605.01 Applicability. The rules in this part shall apply, as specified in Env-Wm 101.02(c), to the management of waste or scrap tires, from the point of waste origination to the point of waste disposal.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91, EXPIRED: 7-1-97

New. #6619-B, eff 10-29-97

Env-Wm 2605.02 Collection, Storage and Transfer Requirements.

(a) Tires shall be collected, stored and transferred in accordance with the requirements of Env-Wm 2100 and this section.

(b) Outdoor storage of tires shall be in:

(1) Covered trailers;

(2) Transfer containers; or

(3) In stockpiles as follows:

- a. The diameter of the piles shall not exceed 25 feet;
- b. The height of the piles shall not exceed 15 feet;
- c. Fire lanes no less than 25 feet in width shall be maintained around each pile;
- d. Each pile shall have a berm with a minimum height of 12 inches constructed around its perimeter capable of containing any pyrolitic oils or other liquids generated by fire; and
- e. The stockpiling facility shall have equipment, cover material and other supplies, including water, sufficient to control a fire until the nearest fire company capable of extinguishing the fire arrives.

(c) Indoor storage shall be in conformance with the Standard for Storage of Rubber Tires, N.F.P.A. 231D, 1994 edition, as adopted by the National Fire Protection Association.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91, EXPIRED: 7-1-97

New. #6619-B, eff 10-29-97

Env-Wm 2605.03 Processing and Treatment Requirements.

(a) Chipping, shredding and other physical processing of tires shall comply with the requirements in Env-Wm 2200 and this section.

(b) Collection and storage of tires by facilities that process or treat tires shall conform to the requirements of Env-Wm 2605.02.

(c) Processing of tires shall be done in a manner to limit noise, odor and fugitive dust emissions to the greatest extent possible.

Source. #6619-B, eff 10-29-97

Env-Wm 2605.04 Disposal Requirements.

(a) Waste tires shall be disposed at authorized facilities only.

(b) Tires shall be landfilled only in a manner that shall preclude movement of the tires after burial, such as by shredding, splitting or quartering the tires prior to landfilling or by filling the tires during landfilling.

Source. #6619-B, eff 10-29-97

Env-Wm 2605.05 Reuse Requirements and Limitations.

(a) Waste tires, if reused, shall be certified for distribution and use in accordance with Env-Wm 3200.

(b) Tires shall not be certified for distribution and use if distribution and use shall:

- (1) Constitute a fire hazard;
- (2) Provide a habitat for breeding mosquito populations;

- (3) Constitute a safety hazard;
- (4) Constitute a nuisance; or
- (5) Violate any federal regulation or state rule.

Source. #6619-B, eff 10-29-97

Env-Wm 2605.06 Transportation Requirements. Tires, either whole or processed, shall be transported in a manner to prevent blowing or falling debris.

Source. #6619-B, eff 10-29-97

Env-Wm 2605.07 Testing and Reporting Requirements. Facilities managing tires shall comply with the reporting requirements specified in Env-Wm 2100 through Env-Wm 2900, as applicable.

Source. #6619-B, eff 10-29-97

Env-Wm 2605.08 Other Requirements.

- (a) The open burning of tires or processed tires shall be prohibited.
- (b) Tires shall be managed in a manner as to avoid establishing habitat for breeding mosquito populations.

Source. #6619-B, eff 10-29-97

PARTS Env-Wm 2606 and Env-Wm 2607 - REPEALED AND RESERVED

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; amd by #5297, eff 12-24-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; rpld by #6619-B, eff 10-29-97

CHAPTER Env-Wm 2700 UNIVERSAL FACILITY REQUIREMENTS

Statutory Authority: RSA 149-M:7

PART Env-Wm 2701 PURPOSE AND APPLICABILITY

Env-Wm 2701.01 Purpose. The purpose of the rules in this chapter is to ensure that facilities are located, designed, constructed, operated and closed in a manner that does not endanger public health or adversely affect the environment and which minimizes the potential for accidents that could lead to personal injury or property damage.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2701.02 Applicability. The rules in this chapter shall apply as specified in Env-Wm 101.02(c) to all facilities, including permit-exempt facilities.

Source. #6619-B, eff 10-29-97

PART Env-Wm 2702 UNIVERSAL ENVIRONMENTAL PERFORMANCE REQUIREMENTS

Env-Wm 2702.01 Environmental Conservation and Protection. Facilities shall be located, designed, constructed, operated and closed in a manner that conserves natural resources and is protective of the natural environment, human health and safety.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2702.02 Discharge of Pollutants Prohibited.

(a) Facilities and practices shall not cause a discharge of pollutants into surface waters of the United States or the state in violation of Section 402 of the Federal Clean Water Act.

(b) Facilities and practices shall not cause a discharge of dredged material to waters of the United States in violation of RSA 482-A or Section 404 of the Clean Water Act.

(c) Facilities and practices shall not cause a non-point source of pollution that contravenes the requirements of an areawide or statewide water quality management plan under Section 319 of the Clean Water Act.

(d) Facilities and practices shall not contaminate surface water or groundwater in violation of federal or state law, any rules implemented by the department or any administratively-attached board, or the conditions of any permit issued by the department or any administratively-attached board.

(e) Facilities and practices shall not cause air pollution in violation of federal or state law, any air quality rules implemented by the department or the conditions of any air quality permit issued by department, or the New Hampshire state implementation plan under the Clean Air Act.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2702.03 Protection of Wildlife. Facilities or practices shall not adversely affect endangered or threatened species.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2702.04 Safety.

(a) Facilities and practices shall not cause concentrations of explosive gases such as methane to exceed 25% of the lower explosive limit of the gases in any structure, excluding facility-related gas recovery equipment, or to exceed 50% of the lower explosive limit of the gases at the property boundary.

(b) Facilities shall be designed, constructed, operated and closed in a manner that minimizes the risk of fires and provides the ability to deal with them effectively if they occur.

(c) Facilities that manage putrescible waste and are located within 10,000 feet (3,048 meters) of any airport runway used by turbojet aircraft or within 5,000 feet (1,524 meters) of any airport runway used by only piston-type aircraft shall be designed, constructed, operated and closed in a manner that minimizes the risk of attracting birds that may be hazardous to aircraft.

(d) Facilities and practices shall comply with the administrative rules for safety and health, Lab 1400.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97; amd by #7225, eff 3-31-00

Env-Wm 2702.05 Dams, Flowage and Flood Provisions.

(a) Facilities and practices shall comply with RSA 482 relative to dams and flowage.

(b) Facilities and practices shall protect all waste storage, handling and disposal areas against impact from the 100 year flood.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

PART Env-Wm 2703 UNIVERSAL SITING REQUIREMENTS

Env-Wm 2703.01 Distance to Other Facilities. A facility or practice shall not physically interfere with the proper operation or closure of any other facility.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2703.02 Easements and Rights-of-Way. The location of a facility shall be outside the limits of any right-of-way or easement, except as provided by Env-Wm 2703.03.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97; ss by #7225, eff 3-31-00

Env-Wm 2703.03 Property Ownership and Access Rights.

(a) The location of a facility shall be on property owned by the permittee or on property for which the property owner has granted a lease, easement or other legal right to the permittee for use of the property for said purpose, including access to the property when required by the permittee and department for closure and post-closure monitoring of the facility and site.

(b) The location of a facility may be on property where a right-of-way, easement or other legal right for use of the property is granted to a third party, provided that the grant shall not adversely affect the permittee's ability to meet all facility requirements pursuant to RSA 149-M, the solid waste rules and the terms and conditions of the permit.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2703.04 Groundwater and Surface Waters.

(a) No facility shall be located in violation of RSA 483, relative to management and protection of rivers.

(b) No facility shall be located in violation of RSA 485, RSA 485-A and RSA 485-C, relative to protection of groundwater.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2703.05 Wetlands. No facility shall be located in violation of RSA 482-A, relative to protection of wetlands.

Source. #6619-B, eff 10-29-97

Env-Wm 2703.06 Shoreland Protection. No facility shall be located in violation of RSA 483-B, relative to protection of shorelands.

Source. #6619-B, eff 10-29-97

Env-Wm 2703.07 Designated Rivers. No facility shall be sited in violation of RSA 483, relative to protection of designated rivers.

Source. #6894-B, eff 12-1-98

PART Env-Wm 2704 UNIVERSAL DESIGN REQUIREMENTS

Env-Wm 2704.01 Basic Design Requirements.

(a) The design of a facility shall be compatible with achieving the universal environmental performance requirements in Env-Wm 2702.

(b) The design of a facility shall facilitate operations in accordance with the universal operating standards in Env-Wm 2705 and all other requirements of the solid waste rules, as applicable.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2704.02 Roads and Traffic Control.

(a) The design of the facility as it relates to the management of traffic on roads leading to and from the facility's entrance and exit points shall meet all applicable local standards if the roads are municipal streets or roads or, if the roads are state roads, shall meet the requirements of the New Hampshire department of transportation.

(b) A facility shall be designed to prevent entering and exiting vehicles from obstructing the safe flow of traffic on any public road leading to or from facility.

(c) Adequate on-site area at the facility's entrance and exit points shall be provided to allow the number and types of waiting vehicles expected to use the facility during peak times to safely queue off the public road(s) and right-of-way.

(d) A facility shall be designed to accommodate on-site traffic flow in a safe and efficient manner in all weather conditions.

(e) Separate on-site access for passenger vehicles shall be provided at facilities where public drop-off is allowed.

(f) A facility shall be designed to assure that traffic conflicts shall not occur between bulk transport vehicles, passenger vehicles and pedestrians at the facility site.

(g) The on-site road surface and the road base shall be suitable for heavy vehicles and capable of withstanding expected loads.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2704.03 Drainage.

(a) Site drainage features shall be designed in accordance with the requirements of RSA 485-A:17.

(b) Detention basins and other drainage structures shall be located and designed to minimize the potential to adversely impact any landfill closure system located at or near the site.

(c) Surface drainage shall be collected and directed to discharge points having no potential to affect the performance of any groundwater or surface water monitoring system, leachate collection and removal system, or any other component of a landfill closure system.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2704.04 Protection of Landfill Closure Systems. The design of a facility shall include measures or features to avoid damage during construction and operation of the facility to any component of a landfill closure system, including:

- (a) Ground control markers;
- (b) The capping system;
- (c) Leachate collection system risers and clean-outs;
- (d) Groundwater monitoring wells; and
- (e) Decomposition gas control devices.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2704.05 Wastewater Systems. All wastewater collection, transmission and treatment features which are part of or specifically serve a facility shall be designed in accordance with RSA 485-A.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2704.06 Motor Vehicle Waste Collection. Pursuant to RSA 149-M:9,IV, a facility which receives motor vehicle wastes shall be designed to provide for separation of such wastes.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2704.07 Equipment.

(a) Equipment shall be installed at a facility in conformance with the manufacturer's specifications and recommendations for installation, unless otherwise allowed by the solid waste rules.

(b) Pursuant to RSA 149-M:10,II, municipalities and waste haulers shall affix ownership identification and/or facility or company logo to all waste containers used in conjunction with the operation of a facility.

Source. #6619-B, eff 10-29-97

PART Env-Wm 2705 UNIVERSAL OPERATING REQUIREMENTS

Env-Wm 2705.01 General Operating Requirements.

(a) A facility shall not exceed the capacity limits specified in its permit or, in the case of a permit-exempt facility, the capacity limits specified by the exemption, if any.

(b) A facility shall operate in a manner consistent with the design limitations of the facility and associated equipment.

(c) Facility equipment shall be operated and maintained in conformance with manufacturer specifications and recommendations unless otherwise allowed by the solid waste rules.

(d) A facility, including associated equipment, containers and vehicles, shall be operated and maintained in a manner that controls to the greatest extent practicable:

- (1) Dust;
- (2) Litter;
- (3) Insects;
- (4) Odors;
- (5) Vectors;
- (6) Spills;
- (7) The production of leachate;
- (8) Fire hazards including spontaneous combustion;
- (9) The generation of methane and other hazardous or explosive gases;
- (10) Noise; and
- (11) Nuisances.

(e) The permittee shall regularly inspect, monitor and maintain the facility to assure compliance with the permit and the solid waste rules.

(f) The permittee shall execute facility repairs and correct, abate and remediate facility operating problems in a timely manner and as directed by the department in conformance with the solid waste rules.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2705.02 Unauthorized Use Prohibited. Unauthorized entry to and unauthorized use of a facility shall be prohibited by:

- (a) Restricting access to the facility;
- (b) Regularly inspecting the waste received and managed at the facility; and
- (c) Other appropriate measures based on the type, size, location and life expectancy of the facility and the type, source and quantity of waste handled by the facility.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2705.03 Traffic Management.

- (a) Facility operations shall be conducted in a manner that shall not allow incoming or exiting vehicles to obstruct the safe passage of traffic on any public road leading to and from the facility.
- (b) Facility operations shall be conducted in a manner as to accommodate on-site traffic flow in a safe and efficient manner.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2705.04 Reuse of Waste.

- (a) A waste, including waste-derived products, shall be distributed and used only in accordance with Env-Wm 3200.
- (b) A waste stored for reuse shall be stored in a manner that protects its market value.
- (c) A facility shall disclose the following information to consumers of waste-derived product(s) distributed by the facility for use:
 - (1) The content and nature of the waste-derived products;
 - (2) The proper uses of the waste-derived products and any restrictions related thereto;
 - (3) Any hazards that might result from use of the waste-derived products;
 - (4) Proper methods for disposal of the waste-derived product; and
 - (5) Other such information as might be required by applicable federal and state consumer protection rules and regulations.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2705.05 Public Benefit.

- (a) A facility shall comply with the requirements of RSA 149-M:11,X, relative to providing a substantial public benefit.
- (b) The following facilities shall be deemed to provide a substantial public benefit and therefore need not make an explicit demonstration of public benefit in a permit application:
 - (1) A permit-exempt facility;
 - (2) A permit-by-notification facility;

(3) An emergency permit facility; and

(4) A research and development facility;

(c) The following facilities shall be deemed to satisfy the first criteria for public benefit in RSA 149-M:11,III(a) and therefore need only address the remaining 2 criteria in RSA 149-M:11,III(b) and (c) when making a demonstration of public benefit in an application for a permit or permit modification:

(1) Any limited public facility; and

(2) Any limited private facility.

Source. #6619-B, eff 10-29-97

Env-Wm 2705.06 Operator Qualifications.

(a) A facility operator shall be capable of efficiently operating and maintaining the facility in a manner which is protective of the environment, public health and safety.

(b) A facility operator shall demonstrate a level of knowledge and understanding of the solid waste rules sufficient to operate the facility in compliance with all applicable requirements of the solid waste rules and the facility permit.

(c) Operators of a level I facility, as specified by Env-Wm 3302.05, shall demonstrate the qualifications required pursuant to (b) above by operating and maintaining the facility in accordance with all applicable requirements of the solid waste rules and the facility permit.

(d) Operators of level II through level IV facilities, as specified by Env-Wm 3302.06 through Env-Wm 3302.08, shall demonstrate the qualifications required pursuant to (b) above by complying with Env-Wm 316 and Env-Wm 3300, and by operating and maintaining the facility in accordance with all applicable requirements of the solid waste rules and the facility permit.

Source. #6619-B, eff 10-29-97

Env-Wm 2705.07 Facility Staffing.

(a) A facility shall be staffed with persons qualified by reason of education, experience and performance history to operate the facility in accordance with all applicable requirements of the solid waste rules and the permit.

(b) For level II through level IV facilities, as specified by Env-Wm 3302.06 through Env-Wm 3302.08:

(1) All persons who operate the facility shall be certified by either issued certification or interim certification in accordance with Env-Wm 3300;

(2) For every one to 5 operators, there shall be at least one supervisor who shall be certified as a level III or level IV operator in accordance with Env-Wm 3300; and

(3) During the hours of operation, no less than 50 percent of the on-site personnel directly involved with the management of solid waste shall be operators certified by issued certification in accordance with Env-Wm 3300.

Source. #6619-B, eff 10-29-97

Env-Wm 2705.08 Financial Assurance.

(a) The permittee shall be responsible for the cost of facility closure, including all post-closure obligations.

(b) Prior to commencing operation of a facility, the permittee shall assure that adequate funds, in an amount no less than the amount calculated pursuant to Env-Wm 3103.02, are readily available to cover the cost of facility closure.

(c) In order to meet the obligation specified by (b) above, the permittee shall provide a formal financial assurance plan when required pursuant to Env-Wm 3100.

Source. #6619-B, eff 10-29-97

Env-Wm 2705.09 Incident Reporting.

(a) The permittee shall report to the department all incidents or situations at the facility which involve an imminent and substantial risk to human health, safety or the environment and/or which constitute a violation of the solid waste rules or the facility permit.

(b) Reports pursuant to (a) above shall be verbally made to the department by the permittee as soon as practicable.

(c) The permittee shall submit a written report pursuant to (a) above within 5 working days of the time the permittee becomes aware of the incident or situation and include the following information:

- (1) Facility name, location by street and municipality, and permit number;
- (2) Permittee name, mailing address and telephone number;
- (3) Identification of all persons involved in the incident or situation, including name, title and affiliation;
- (4) A description of the incident or situation, including:
 - a. The date and time the incident or situation occurred;
 - b. The quantity and types of wastes and material(s) involved in the incident or situation and in the clean-up activities;
 - c. Measures employed to contain releases caused by the incident or situation; and
 - d. An assessment of actual or potential hazards to the environment, safety and human health related to the incident; and
- (5) Measures the permittee has or intends to apply to reduce, eliminate, and prevent a recurrence of the incident or situation.

(d) The permittee shall report to the department, in writing, complaints made by abutters or other third parties which involve operating conditions or practices having the potential to adversely effect human health, safety or the environment or which involve a recurring or persistent nuisance situation such as noise, litter, odor, dust or vectors.

(e) The written report pursuant to (d) above shall be made as soon as practicable and include the following information:

- (1) Facility name, location by street and municipality, and permit number;
- (2) Permittee name, mailing address and telephone number;
- (3) Name, mailing address and, if available, telephone number of the complainant;

(4) The nature of the complaint, date(s) of receipt by the permittee, and a complete description of the circumstances or situation giving rise to the complaint;

(5) A description of the permittee's response action(s); and

(6) Such other information as required by (c) above if the circumstances or situation giving rise to the complaint require reporting under (c) above.

(f) The rules in (a) and (d) above shall not be construed to mean a report is required on each day that an incident persists if the likelihood of its persistence is disclosed to the department in the initial report and the permittee is taking action to remedy the problem.

Source. #6619-B, eff 10-29-97

Env-Wm 2705.10 Out-of-State Waste Recordkeeping.

(a) Upon receipt of out-of-state waste by a disposal facility, the permittee shall obtain the information specified in (b) below in the form of a written statement signed by the transporter certifying under penalty of unsworn falsification pursuant to RSA 641:3 that the information is true and correct to the best of the transporter's knowledge and belief.

(b) The information required pursuant to (a) above shall include:

(1) The printed or typed name and mailing address of the person delivering the out-of-state waste;

(2) The date of delivery;

(3) A declaration of the total number of tons of out-of-state waste being delivered to the facility; and

(4) The point of origin of the out-of-state waste contained in each load, identified by individual state, and number of tons from that state.

(c) The permittee shall maintain in a secure location the records required by (a) and (b) above, and provide a copy to the department pursuant to Env-Wm 3702.

Source. #6619-B, eff 10-29-97

PART Env-Wm 2706 UNIVERSAL CLOSURE REQUIREMENTS

Env-Wm 2706.01 Trigger Events for Closure. A facility shall implement closure as specified in Env-Wm 2706.02 when one or more of the following conditions exists:

(a) The facility's operating permit expires or is revoked pursuant to RSA 149-M:12,II, or the facility has no operating permit;

(b) The permittee abandons use of the facility or ceases facility operations, unless notice is provided pursuant to Env-Wm 2806.05;

(c) Facility development is abandoned prior to commencing facility operations, unless notice is provided pursuant to Env-Wm 2806.05;

(d) The facility sustains irreparable damage or otherwise cannot operate in accordance with its permit and the solid waste rules;

(e) Environmental conditions exist at the site causing a threat to human health or the environment and such conditions have not been or cannot be remediated;

(f) If the facility is a landfill, it reaches its approved design volume or its temporary permit is called pursuant to Env-Wm 307;

(g) The facility reaches the end of its life expectancy and/or can no longer meet performance standards; or

(h) The facility is issued an administrative or judicial order to close.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97; ss by #7225, eff 3-31-00

Env-Wm 2706.02 General Closure Requirements. A facility shall be closed in accordance with the following provisions:

(a) All waste deliveries to the facility shall be terminated;

(b) All waste not permitted to remain at the facility following closure, including processed recyclable materials and all surface debris and litter, shall be removed from the facility to an authorized facility;

(c) If the facility is a landfill, all waste permitted to remain at the facility shall be contained and covered as necessary to protect the environment, public health and safety, and to achieve and maintain compliance with all universal facility performance requirements in Env-Wm 2702;

(d) Waste management equipment shall be removed or decommissioned, except for equipment needed to meet post-closure monitoring and maintenance obligations, if any;

(e) If the facility is not a land disposal facility, the facility site shall be cleaned to its original condition of cleanliness;

(f) If it is impracticable to return the facility site to its original condition of cleanliness pursuant to (e) above, whether because the character of the surrounding land use has changed, the original condition was in violation of state or federal environmental or public health laws, rules or regulations, or for any other reason, the permittee shall clean the facility site so as to render it suitable for an alternate use consistent with local land use and/or zoning regulations or plans; and

(g) Post-closure monitoring and maintenance shall be undertaken as required to assure the facility is closed in a manner to not adversely effect the environment, public health or safety.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

PART Env-Wm 2707 AND Env-Wm 2708 - EXPIRED AND RESERVED

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRED 10-29-97

CHAPTER Env-Wm 2800 ADDITIONAL FACILITY REQUIREMENTS

Statutory Authority: RSA 149-M:7

PART Env-Wm 2801 PURPOSE AND APPLICABILITY

Env-Wm 2801.01 Purpose. The purpose of the rules in this chapter is to ensure that the facilities identified in Env-Wm 2801.02(a), shall be located, designed, operated and closed in a manner that does not endanger public health or adversely affect the environment and which minimizes the potential for accidents that could lead to personal injury or property damage.

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2801.02 Applicability.

(a) Subject to (b) below, the rules in this chapter shall apply as specified in Env-Wm 101.02(c) to all facilities having an active life longer than 90 days, except:

- (1) Permit-exempt facilities;
- (2) Research and development permit facilities as provided by Env-Wm 312.02(b); and
- (3) Emergency permit facilities as provided by Env-Wm 313.02(b).

(b) A requirement in this chapter specifying the use of a particular material or procedure shall not apply if an alternative is approved by the department as a condition of the permit based on a demonstration by the applicant or permittee presented in a permit application, application for permit modification or compliance report, as applicable, that:

- (1) The alternative material or procedure shall be functionally equivalent or superior to the material or procedure specified by rule; and
- (2) The alternative shall not be prohibited by any other state rules or federal regulations applicable to the facility.

(c) The requirements in this chapter shall apply as the complement of the requirements in Env-Wm 2700 for all facilities, Env-Wm 2900 for permit-by-notification facilities, Env-Wm 2100 through Env-Wm 2500 as applicable based on the functional classification of the facility, and Env-Wm 2600 as applicable based on the type of waste managed by the facility.

Source. #6619-B, eff 10-29-97

PART Env-Wm 2802 ADDITIONAL SITING REQUIREMENTS

Env-Wm 2802.01 General Siting Requirements. The location of a facility shall be compatible with meeting all design, construction, operating and closure requirements specified for the facility in the solid waste rules, including requirements noted in Env-Wm 2802.01(c), as applicable:

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

Env-Wm 2802.02 Co-existence with Other Activities. The property on which the facility locates shall not also be the site of any activity not specifically authorized in the facility permit, either because it is an activity not regulated by the solid waste rules such as the collection of used oil for recycling or the operation of a non-waste related business, or because it is a permit-exempt activity such as the operation of a burn pile pursuant to Env-Wm 2208.05, unless:

(a) The activity shall have no adverse affect on operating the permitted facility in compliance with the solid waste rules and the permit; and

(b) When required by Env-Wm 2805.07(d), notice of the activity shall be provided to the department as specified in Env-Wm 2805.07(e) and (f).

Source. (See Revision Note at PART Heading for Env-Wm 101) #5172, eff 7-1-91; ss by #6535, INTERIM, eff 7-1-97, EXPIRES: 10-29-97; ss by #6619-B, eff 10-29-97

PART Env-Wm 2803 ADDITIONAL DESIGN REQUIREMENTS

Env-Wm 2803.01 General Design Requirements.

(a) A facility shall employ best practicable technology(s) and sound engineering practices in meeting the applicable design requirements specified in the solid waste rules.

(b) Where options exist relative to design concepts, preference shall be given to the option which provides:

- (1) The least complex alternative(s) for facility construction, operation and maintenance; and
- (2) Exhibits the required performance standard(s).

(c) The design of a facility shall be compatible and facilitate compliance with the applicable facility operating and closure requirements specified in the solid waste rules.

Source. #6619-B, eff 10-29-97

Env-Wm 2803.02 Equipment Installation. The installation and use of manufactured equipment at a facility shall conform to the manufacturer's specifications and recommendations, unless the permittee provides a written statement by a qualified professional engineer certifying that the non-conforming installation and use shall not adversely affect the environment, public health or safety.

Source. #6619-B, eff 10-29-97

Env-Wm 2803.03 Access Control.

(a) The perimeter of a facility site shall be fenced in a manner as to restrict unauthorized access to the facility, except no fence shall be required if natural site features restrict access to the site, or all waste handling, storage and disposal areas at the facility are wholly contained within locked structures or devices when the facility operator is not present.

(b) Weather resistant signs, which state that access is restricted, shall be posted around the perimeter of a facility site wherever fencing is not required by (a) above.

(c) The lawful access points to the facility shall be secured by locked gates or the equivalent during times when the facility operator is not be present.

Source. #6619-B, eff 10-29-97

Env-Wm 2803.04 Surrounding Properties. The design of a facility shall incorporate features to minimize adverse impacts, if any, to surrounding properties, such as the use of stockade fencing where appropriate to shield waste storage and handling areas from view and to control the off-site transport of dust and windblown litter, and the use of landscaping berms or other vegetation for similar purposes.

Source. #6619-B, eff 10-29-97

Env-Wm 2803.05 Design Plans and Specifications, Content and Format. Facility plans and specifications, including preliminary and final plans submitted with an application pursuant to Env-Wm 311 through Env-Wm 315 and record drawings submitted pursuant to Env-Wm 2804.07, shall conform to the following requirements:

(a) Plans and specifications shall bear the date of preparation and, for a facility already permitted, the facility permit number;

(b) Plans and specifications shall be clearly readable;

(c) Plans and specifications shall be prepared in accordance with standard engineering practices, including dimensions, labels, details and other graphic elements;

(d) Plans and specifications shall be stamped by a qualified professional engineer as required by RSA 310-A;

(e) Except as provided by (f) below, plans shall:

(1) Be prepared at a scale of no less than 1 inch = 50 feet;

(2) Be presented on paper no larger than 24 inches by 36 inches;

(3) Show profiles drawn to standard scales with a ratio of 10 horizontal to 1 vertical, such as 40:4 and 50:5;

(4) Show elevations of the surface to the nearest 0.1 foot;

(5) Show elevations of the piping, sewer, and manhole inverts to the nearest 0.01 foot;

(6) Report all elevations in feet and tenths and reference all elevations to a standard datum, which shall be indicated on the plans, based on mean sea level; and

(7) Show contours at a minimum interval of 2 feet on all plan views.

(f) Alternatives to (e) above shall be accepted if, prior to submitting the plans, the applicant requests approval of the alternative(s) and shows in the request that, based on the size of the land area being shown, the size of the detail being shown or the margin of error acceptable, the information to be presented on the plans will be as clear and understandable prepared according to the alternative(s) as it would be prepared according to (e) above.

(g) Plans and specifications submitted for construction approval shall include the intended methods for sequencing facility construction, consistent with:

(1) The seasonal restrictions specified in Env-Wm 2804.04;

(2) The construction schedule required by Env-Wm 2804.02; and

(3) For landfills constructed in phases over time, the requirements in Env-Wm 2505.11(d).

(h) Plans and specifications shall be submitted with all calculations and design related documentation required to support and verify the adequacy of the proposed design and construction.

Source. #6619-B, eff 10-29-97

PART Env-Wm 2804 ADDITIONAL CONSTRUCTION REQUIREMENTS

Env-Wm 2804.01 Prerequisites for Construction.

(a) Prior to commencing construction of a facility, or any phase or portion thereof, the permittee shall:

(1) Obtain approval for the applicable design plans and specifications, as follows:

a. For a permit-by-notification facility or other facility which is not subject to the provisions in Env-Wm 305.05(b) and (c), the facility plans submitted in the application shall be deemed approved for construction upon issuance of the permit; and

b. For facilities with a standard permit, emergency permit or research and development permit which is subject to the provisions in Env-Wm 305.05(b) and (c), plans and specifications for construction shall be approved pursuant to the provisions for a type II permit modification in Env-Wm 315;

(2) If the construction project is for new landfill capacity, obtain approval for preliminary plans to close the facility as though the phase being constructed will be the terminal phase, as follows:

a. By submitting such plans with the permit application and obtaining approval thereof by issuance of the permit; or

b. By submission of such plans with the application for permit modification required pursuant to (1)b. above;

(3) If required pursuant to Env-Wm 2804.04(f), file a site safety and contingency work plan and the related certification with the department;

(4) Obtain legal rights of access or property ownership as required by Env-Wm 2703.03 and, if applicable, Env-Wm 2504.06 and Env-Wm 2507.03(d);

(5) Comply with all other pre-construction requirements specified in the permit; and

(6) After complying with (1) through (5) above, file a notice of intent to construct as specified in Env-Wm 2804.02.

(b) For a landfill or other facility constructed in phases over time, including construction of a landfill closure system, the permittee shall comply with the requirements specified in (a) above for each new phase of construction.

Source. #6619-B, eff 10-29-97; amd by #6894-B, eff 12-1-98

Env-Wm 2804.02 Notice of Intent to Construct.

(a) A notice of intent to construct shall include:

(1) Facility identification;

(2) A construction schedule that provides the following information:

a. The intended starting date of construction; and

b. The discrete construction activities to be performed, including:

1. The order in which they will be performed;

2. The projected starting date for each; and

3. The estimated length of time required to complete each activity;

(3) The name, address and professional qualifications of the construction contractor(s);

(4) For construction of a facility which is subject to Env-Wm 2804.06, the name(s), address(es), telephone number(s) and professional qualifications of the resident engineer and project engineer as required by Env-Wm 2804.06;

(5) For construction of a facility which is not subject to Env-Wm 2804.06, the name(s), address(es) and telephone number(s) of the person(s) in responsible charge of construction activities;

(6) Identification of the plans and specifications approved for construction, by attaching a copy of the approval or providing reference to the terms and conditions of the permit wherein the approval is granted; and

(7) Affirmation that all other prerequisite approvals and actions, as specified in Env-Wm 2804.01(a), have been satisfied for the proposed construction activity.

(b) The notice of intent to construct shall be signed by the permittee and property owner.

(c) The notice of intent to construct shall be:

(1) Filed with the department in duplicate; and

(2) Copied to the host municipality and district.

Source. #6619-B, eff 10-29-97; amd by #6894-B, eff 12-1-98; amd by #7225, eff 3-31-00

Env-Wm 2804.03 Approval to Commence Construction.

(a) Except as provided in (e) below, upon receipt of a complete notice of intent to construct, a copy of the notice bearing the department's dated receipt stamp shall be returned to the permittee.

(b) The permittee shall:

(1) Attach the returned copy of the notice to a copy of the permit, or section of the permit, which granted approval of the applicable plans and specifications; and

(2) Prominently display each at the construction site.

(c) The returned copy of the notice shall constitute approval to commence construction as specified in the notice and in accordance with the approved plans and specifications.

(d) Approval to commence construction shall:

(1) Expire one year from the date of issuance if construction is not commenced; and

(2) Be subject to terms and conditions as necessary to assure that the facility is constructed in accordance with the approved plans and specifications, all applicable rules, regulations and the terms and conditions of the permit.

(e) If the permittee has not satisfied all prerequisites for construction as specified in Env-Wm 2804.01, the notice of intent to construct shall not be returned by the department upon receipt and approval to commence construction shall be thereby withheld while the permittee is notified and corrects the deficiency.

(f) The department shall first notify the permittee by telephone of a deficiency pursuant to (e) above and follow it in writing within 10 working days, if the permittee has not corrected the deficiency in the meantime.

(g) Suspension or revocation of a construction approval shall be subject to the provisions in Env-Wm 306.

Source. #6619-B, eff 10-29-97

Env-Wm 2804.04 General Construction Requirements.

(a) Except for the field changes allowed by Env-Wm 2804.05, a facility shall be constructed in strict accordance with the approved plans and specifications.

(b) Construction of a facility shall occur in accordance with standard engineering and construction practices.

(c) The permittee shall assure implementation of quality assurance controls during construction.

(d) Construction of a facility shall not take place during climatic conditions having the potential to adversely affect:

(1) The quality of the work being performed; or

(2) The performance of the facility or any component thereof when operated and closed.

(e) The permittee shall assure that construction practices shall comply with all applicable labor safety standards including but not limited to the following:

(1) Regulations administered by the Occupational Safety and Health Administration (OSHA); and

(2) Statutes and rules implemented by the New Hampshire department of labor.

(f) Construction involving the removal or relocation of waste shall occur in accordance with a site safety and contingency work plan as follows:

(1) The plan shall satisfy all applicable federal, state and local requirements for protection of human health and the environment; and

(2) Except as provided by (3) below, the plan shall be submitted for informational purposes in accordance with Env-Wm 2804.01 including a signed statement by a qualified professional attesting to the adequacy of the plan;

(3) Submittal of the site safety and contingency work plan shall not be required for incidental waste removal such as occurs during gas vent installation.

(g) Prior to causing any part of any waste containment, conveyance, processing or treatment system at a facility to become inaccessible for inspection and repair, the system shall be inspected and tested to assure that it meets all applicable standards and specifications.

(h) Following completion of inspection and testing pursuant to (g) above, a written inspection report shall be prepared, including:

(1) The method of inspection(s);

(2) The applicable test protocol and standards; and

(3) For a facility which is subject to Env-Wm 2804.06, the professional stamp and signature of the project engineer to certify that, based upon inspection and testing conducted pursuant to the approved design plans and specifications and all additional information known to the project engineer, the applicable facility system has been constructed in accordance with the approved plans and specifications.

Source. #6619-B, eff 10-29-97

Env-Wm 2804.05 Design Changes During Construction.

(a) During construction of a facility not subject to Env-Wm 2804.06, the permittee may implement a change to the approved plans and specifications, without explicit department approval, provided that:

- (1) The change(s) shall not violate any siting, design, operating or closure requirement applicable to the facility; and
- (2) The change(s) shall be identified and reported to the department on the record drawings filed pursuant to Env-Wm 2804.07.

(b) During construction of a facility which is subject to Env-Wm 2804.06, the permittee may implement a change to the approved plans and specifications, without explicit department approval, provided that the project engineer:

- (1) Determines that all conditions specified in (c) below shall be met;
- (2) Fully documents the change in the bi-weekly construction report submitted to the department pursuant to Env-Wm 2804.07, or earlier whenever possible; and
- (3) Establishes a record of the change(s) so as to allow the change to be identified and reported to the department on the record drawings filed pursuant to Env-Wm 2804.07.

(c) A design change shall not be implemented pursuant to (b) above unless:

- (1) The change shall not be relevant to assessing facility siting criteria and maintaining compliance therewith;
- (2) The design change shall be functionally equivalent or superior to the design feature being changed;
- (3) Other than the fact that the change is not explicitly part of the approved plans and specifications, the change shall comply with all applicable rules and regulations and all terms and conditions of the permit;
- (4) The change shall not require any change to the facility's approved operating, closure and financial assurance plans; and
- (5) The change shall not involve the use of waste-derived products not certified for distribution and use pursuant to Env-Wm 3200.

(d) For a facility which is subject to Env-Wm 2804.06, a change to the approved plans or specifications which does not meet the conditions specified in (c) above shall be authorized only by issuance of a permit modification pursuant to the provisions of Env-Wm 315.

Source. #6619-B, eff 10-29-97; amd by #6894-B, eff 12-1-98

Env-Wm 2804.06 Project Engineer and Resident Engineer. A standard permit facility, emergency permit facility not exempt pursuant to Env-Wm 313.02(b) and research and development permit facility not exempt pursuant to Env-Wm 312.02(b), shall comply with the following requirements:

(a) The permittee shall designate a project engineer to:

- (1) Administer the technical aspects of the construction contract; and

- (2) Provide technical coordination of the design, permitting, and construction issues.
- (b) The project engineer shall:
 - (1) Be a qualified professional engineer;
 - (2) Administer all construction contracts;
 - (3) Approve all construction contract change orders;
 - (4) Monitor all inspections and testing;
 - (5) Provide statements and reports as required by Env-Wm 2804.05, Env-Wm 2804.07 and Env-Wm 2805.02;
 - (6) Maintain facility construction records during the construction period;
 - (7) Monitor all construction activities to ensure compliance with the permit, specifically including the approved design plans and specifications;
 - (8) Monitor the scheduling of all construction activities;
 - (9) Generate the written status report required by Env-Wm 2804.07 at the end of each 2 week period; and
 - (10) Assure compliance with a quality assurance/quality control plan pursuant to Env-Wm 2505.16 if applicable.
- (c) If the project engineer is not present at the site when all construction activities at a facility are performed, the permittee shall assure that a qualified resident engineer is present to monitor all construction activities.
- (d) The resident engineer required by (c) above shall:
 - (1) Be a qualified professional engineer; or
 - (2) Work under the supervision of a qualified professional engineer; and
 - (3) Be experienced in and knowledgeable about the work he/she shall be overseeing; and
 - (4) Report directly to the project engineer.
- (e) The requirements of (a) through (d) above shall not apply if:
 - (1) The permittee has demonstrated in the permit application, or the application for a type II permit modification for construction plan approval, that the nature and scope of the proposed construction activity(s) shall not require professional engineering oversight to assure protection of the environment, public health and safety and to meet other requirements of law; and
 - (2) The exclusion is approved as a condition of the permit or permit modification.

Source. #6619-B, eff 10-29-97

Env-Wm 2804.07 Construction Reporting and Recordkeeping Requirements.

- (a) The permittee shall submit in accordance with Env-Wm 303, no later than the Wednesday following the end of each 2 week work period during construction of a facility, a written status report of all construction activities in progress.

(b) The status report submitted pursuant to (a) above shall include the following information:

- (1) Facility identification, including name, location by street and municipality, and permit number;
- (2) Description of work completed to date;
- (3) An amended construction schedule if the anticipated schedule deviates from the last construction schedule of record;
- (4) Design changes implemented pursuant to Env-Wm 2804.05, if any; and
- (5) Damage and repair information pursuant to (e) below, if any.

(c) Upon completion of each major element of construction involving a waste containment, conveyance, processing or treatment system subject to inspection and testing pursuant to Env-Wm 2804.04(g), the permittee shall submit a copy of the inspection report and engineer's certification prepared in accordance with Env-Wm 2804.04(h).

(d) The permittee shall maintain, with the facility operating records pursuant to Env-Wm 2805.06, all construction related records required to document permit compliance and to prepare and validate the record drawings.

(e) If a facility sustains damage during construction which has the potential to adversely affect the integrity of facility operations, life expectancy or performance, the permittee shall:

- (1) Inform the department, as soon as practicable under the circumstances,
- (2) Provide, with the related biweekly construction progress report, a written damage and repair report detailing the incident.

(f) No later than 90 days following completion of construction, the permittee shall:

- (1) Submit in accordance with Env-Wm 303 the applicable facility record drawings, prepared in accordance with Env-Wm 2803.05 and explicitly identifying all features different than the features provided in the approved plans and specifications; and
- (2) Provide written certification that the facility, as-built, meets or exceeds all applicable requirements of the permit including the approved plans and specifications.

Source. #6619-B, eff 10-29-97

Env-Wm 2804.08 Interaction with Department During Construction.

(a) During construction, the permittee shall provide department personnel with access to the construction site for monitoring, inspection and enforcement purposes, pursuant to Env-Wm 3700.

(b) During construction, the permittee shall provide department personnel with access to a construction trailer work station, or other appropriate on-site work station, for use in reviewing plans, specifications and other construction-related records.

(c) During construction, the permittee shall allow department personnel to attend scheduled pre-construction meetings and other construction related meetings with the project engineer and/or the contractor.

(d) The permittee shall address all issues of concern that the department identifies in writing as a consequence of inspecting or monitoring facility construction activities.

(e) If an issue of concern pursuant to (d) above involves a determination by the department that facility construction might not be proceeding in accordance with the approved design plans and specifications, the permittee shall either:

(1) Voluntarily halt construction until the issue is resolved; or

(2) Proceed with construction on the basis that the department shall only grant approval to operate the facility after the issue of concern is resolved or, if the issue of concern involves the construction of a facility closure system, on the basis that the department shall only release the permittee from financial assurance obligations after the issue of concern is resolved.

(f) Revocation or suspension of the construction approval shall be subject to the provisions in Env-Wm 306.

Source. #6619-B, eff 10-29-97

PART Env-Wm 2805 ADDITIONAL OPERATING REQUIREMENTS

Env-Wm 2805.01 Prerequisites for Operations.

(a) Prior to commencing operation of a facility, or any phase or portion thereof, the permittee shall:

(1) Obtain operating plan approval, as follows:

a. For a permit-by-notification facility or other facility which is not subject to the provisions of Env-Wm 305.05(b) and (c), the operating plan shall be approved through issuance of the permit and, for a permit-by-notification facility, based solely on representations by the permittee in the application pursuant to Env-Wm 2902.02(a)(2); and

b. For facilities with a standard permit, emergency permit or research and development permit issued subject to the provisions in Env-Wm 305.05(b) and (c), the operating plan shall be approved pursuant to the provisions for a type II permit modification in Env-Wm 315;

(2) Assure financial responsibility for facility closure, as follows:

a. For a permit-by-notification facility or other facility not subject to Env-Wm 3100, financial responsibility shall be assured by having certified responsibility in the permit application pursuant to Env-Wm 303.04; and

b. For facilities with a standard permit, emergency permit or research and development permit issued subject to the provisions of Env-Wm 305.05(b) and (c), financial responsibility shall be assured in accordance with the provisions of a final financial assurance plan approved pursuant to the provisions for a type II permit modification in Env-Wm 315 and by submitting all original signed financial assurance documents required to verify the plan has been implemented and is in effect;

(3) Complete facility construction in accordance with all applicable construction requirements and submit all construction status reports, including construction inspection reports, as specified in Env-Wm 2804.07;

(4) Comply with all other pre-operation requirements specified in the permit; and

(5) After complying with (1) through (4) above, file a notice of intent to operate as specified in Env-Wm 2805.02.

(b) For a landfill or other facility operated on a phase by phase basis over time, the permittee shall comply with the requirements specified in (a) above each time operation of a new phase commences.

Source. #6619-B, eff 10-29-97; amd by #6894-B, eff 12-1-98; amd by #7225, eff 3-31-00

Env-Wm 2805.02 Notice of Intent to Operate.

(a) A notice of intent to operate shall include the following:

(1) Facility identification;

(2) Date permittee intends to commence operations;

(3) Facility operating hours;

(4) A statement, signed and stamped by the project engineer for a facility subject to Env-Wm 2804.06 or signed by the permittee for a facility not subject to Env-Wm 2804.06, that to the best of his/her knowledge, the facility has been constructed in accordance with the permit, the solid waste rules and the approved plans and specifications and is fit for operation in accordance therewith;

(5) For facilities with a standard permit, emergency permit or research and development permit issued subject to the provisions of Env-Wm 305.05(b) and (c), identification of the approved operating plans and approved financial assurance plan;

(6) For a permit-by-notification facility, reaffirmation of the existence of the operating plan pursuant to the provisions of Env-Wm 2902.02(a)(2) and reaffirmation of financial responsibility for closure pursuant to Env-Wm 2705.08(b);

(7) The name, certificate number and telephone number of all certified facility operators, in conformance with the requirements of Env-Wm 2705.06 and Env-Wm 2705.07;

(8) The name and telephone number of the facility manager or other individual designated by the permittee as being the individual the department should contact regarding operation of the facility; and

(9) Affirmation that all other prerequisite approvals and actions, as specified in Env-Wm 2805.01(a), have been satisfied for the proposed operations.

(b) The notice of intent to operate shall be signed by the permittee and property owner.

(c) The notice of intent to operate shall be:

(1) Filed with the department in duplicate; and

(2) Copied to the host municipality and district.

Source. #6619-B, eff 10-29-97; amd by #6894-B, eff 12-1-98; amd by #7225, eff 3-31-00

Env-Wm 2805.03 Operating Approval.

(a) Except as provided in (e) below, upon receipt of a complete notice of intent to operate, a copy of the notice bearing the department's dated receipt stamp shall be returned to the permittee.

(b) The permittee shall attach the returned copy of the notice to the permit.

(c) The returned copy of the notice shall constitute approval to commence operations as specified in the notice and in accordance with the approved operating plan.

(d) Approval to commence operations shall be subject to terms and conditions as necessary to assure that the facility operates in accordance with the approved plans and specifications, all applicable rules and regulations, and the terms and conditions of the permit.

(e) If the permittee has not satisfied all prerequisites for operations, as specified in Env-Wm 2805.01, the notice of intent to construct shall not be returned by the department upon receipt and approval to commence operations shall be thereby withheld while permittee is notified and corrects the deficiency.

(f) The department shall first notify the permittee by telephone of a deficiency pursuant to (e) above and follow it in writing within 10 working days if the permittee has not corrected the deficiency in the meantime.

(g) Suspension or revocation of an operating approval shall be subject to the provisions in Env-Wm 306.

Source. #6619-B, eff 10-29-97

Env-Wm 2805.04 Basic Operating Requirements.

(a) A facility shall operate in compliance with RSA 149-M, all requirements in the solid waste rules, including those noted in Env-Wm 2801.02(c) as applicable and this part, and the terms and conditions of the permit.

(b) As a condition of the permit, the facility shall operate in accordance with the last approved operating plan record.

Source. #6619-B, eff 10-29-97

Env-Wm 2805.05 Signs and Postings.

(a) Legible signs shall be posted at or near each public entrance to a facility.

(b) The signs required pursuant to (a) above shall include the following:

- (1) The facility name and permit number;
- (2) The name, address and telephone number of the permittee;
- (3) The days and hours that the facility shall be open to receive waste;
- (4) The type of wastes accepted; and
- (5) A statement that unlawful dumping shall be subject to fine and prosecution.

(c) A copy of the permit, including a complete copy of the last approved operating plan of record and a complete copy of the last approved closure plan of record, shall be maintained at a location accessible to facility operators.

(d) A copy of the authorization page of the permit bearing the permit number and the authorization signature, shall be prominently displayed at the facility.

(e) Current operator certification certificates, obtained pursuant to the provisions of Env-Wm 3300, shall be prominently displayed at the facility.

Source. #6619-B, eff 10-29-97

Env-Wm 2805.06 Facility Operating Records.

(a) The permittee shall compile and maintain records at the facility which document all phases of facility operations, including the following information:

- (1) Identification of the facility by name, location by street and municipality and permit number;
- (2) Identification of the permittee by name, address and telephone number;
- (3) Identification of all facility operator(s) by name, address, certificate number, and date(s) of employment at the facility;
- (4) Quantity, type, source and destination of all waste received by the facility;
- (5) Quantity, type and destination of all waste generated by the facility, if any, including bypass waste and residual waste;
- (6) Quantity, type and destination of all certified waste-derived products produced by the facility, if any;
- (7) Record of inspections, maintenance, and repairs;
- (8) Record of accidents, violations, remedial and emergency event response actions;
- (9) Record of complaints received and related response actions;
- (10) Data from all environmental monitoring performed at or for the facility, whether required by the solid waste rules or the permit or undertaken voluntarily;
- (11) Documentation of contact with the waste management district(s) served by the facility as required by Env-Wm 2805.12;
- (12) If the facility is subject to 40 CFR 258, such information and documentation that the permittee shall be required therein to place into the facility operating records;
- (13) Other recordkeeping information and documentation required by Env-Wm 2100 through Env-Wm 2500 as applicable based on the functional classification of the facility; and
- (14) Other information and documentation as required by the terms and conditions of the permit.

(b) The operating records identified in (a) above shall be maintained at the facility at all times during the active life of the facility, unless approval is granted pursuant to the provisions for a type V permit modification in Env-Wm 315 or a waiver to relocate or destroy the record.

(c) Operating records shall be made available for department inspection and copies provided to the department pursuant to Env-Wm 3700.

(d) Following closure of the facility, the operating records shall be maintained at a location approved by the department in the closure plan, unless destruction of the records is approved pursuant to the provisions for a type V permit modification in Env-Wm 315.

Source. #6619-B, eff 10-29-97

Env-Wm 2805.07 Reporting Requirements.

(a) The permittee shall notify the department in writing within 30 calendar days of any change in the facility address, telephone number, key certified operators and contact person(s).

(b) The permittee shall file an annual facility report by March 31 for the prior calendar year for each year that the facility operates and for each year of the facility's post-closure monitoring and maintenance period, as follows:

(1) For a facility that received waste during the reporting year, the report shall contain the information required by Env-Wm 2805.13, except as provided by (3) below.

(2) For a facility that did not receive waste during the reporting year and is either undergoing closure or has completed closure excluding completion of all post-closure monitoring and maintenance obligations, the annual report shall contain the information required by Env-Wm 2805.14, except as provided by (3) below.

(3) Except for facility identification information, the permittee shall not be required to submit in the annual report any information specified in Env-Wm 2805.13 or Env-Wm 2805.14 if:

a. The information was already reported in writing to the department during the calendar reporting year and the permittee provides a written statement which identifies:

1. The nature of the information already submitted;
2. The date the information was submitted or the date on the document containing the information;
3. The title of the document containing the information, if applicable; and
4. The name of the person who submitted the information; and/or

b. The information is unchanged from the previous calendar reporting year and the permittee marks the item "unchanged from last annual report" and cites the date of the last annual report that contained the information;

(c) The permittee shall report all changes in operational and ownership control in accordance with the provisions for a type III or type IV permit modification, as applicable, pursuant to Env-Wm 315.

(d) Pursuant to (e) below and in accordance with Env-Wm 303, the permittee shall notify the department in writing prior to conducting the following activities at the facility not specifically authorized in the permit:

(1) Any activity not regulated by the solid waste rules but involving a waste listed in Env-Wm 101.03; and

(2) Any activity that is permit-exempt in Env-Wm 302.03.

(e) For activities commencing at the facility site after permit issuance, written notice pursuant to (d) above shall include the following, compiled in the order shown:

(1) Facility name, location by street and municipality, and permit number;

(2) A description of the subject activity;

(3) A site plan showing the location of the subject activity in relation to the permitted facility activities;

(4) The date the subject activity will commence and the anticipated duration of the activity;

(5) Identification and status of other local, state and federal permits and approvals required to implement the subject activity; and

(6) Certification, signed by the permittee, that the activity shall not adversely affect the permitted construction, operation and closure of the facility as required by Env-Wm 2802.02.

(f) For activities existing at the facility site prior to permit issuance, written notice pursuant to (d) above shall be provided in the permit application by showing the activity on the existing features plan and describing the activity in the siting assessment.

Source. #6619-B, eff 10-29-97

Env-Wm 2805.08 Hours of Operation.

(a) Except as provided by (b) below, all active and routine facility operations, including waste disposal, facility inspections, maintenance, repairs and monitoring, shall occur between 6:00 a.m. and 6:00 p.m. under normal non-emergency circumstances.

(b) Regular operating hours outside of the normal 6:00 a.m. to 6:00 p.m. window specified by (a) above shall be allowed only if:

(1) Approved by the department in the terms and conditions of the permit based on information provided in an application which demonstrates:

- a. The facility shall not successfully operate within the normal window; and
- b. The alternative hours shall not result in problems relating to safety, access control or nuisances; or

(2) The facility shall be a limited private facility and shall receive no waste from off-site locations.

Source. #6619-B, eff 10-29-97

Env-Wm 2805.09 Receipt and Management of Waste.

(a) Only authorized wastes, as specified in the permit, shall be accepted by a facility.

(b) Incoming wastes shall be inspected and, if necessary, sampled and analyzed to assure the facility accepts authorized waste only.

(c) Unauthorized waste shall be rejected by the facility.

(d) The permittee shall advise the transporter of a rejected waste as to potentially available alternative facilities which the permittee believes or knows to be authorized to receive the type of waste being rejected.

(e) The quantity of incoming waste, outgoing waste and certified waste-derived products produced by the facility shall be measured and recorded in the facility operating records.

Source. #6619-B, eff 10-29-97

Env-Wm 2805.10 Management of Residual Waste.

(a) Facility operations shall include provisions to properly manage residual waste.

(b) A facility shall obtain and maintain access to at least 2 authorized locations where adequate capacity exists to handle the type and quantity of all residual waste, excluding landfill decomposition gas, that the facility shall regularly generate during its operating and post-closure periods.

(c) A residual waste shall not be distributed for use unless certified for distribution and use in accordance with Env-Wm 3200.

Source. #6619-B, eff 10-29-97

Env-Wm 2805.11 Operating Plan Content and Format.

(a) A facility operating plan shall provide sufficient detail to allow the certified operator and other trained facility personnel to operate the facility in compliance with RSA 149-M, the permit and the solid waste rules without further explanation or guidance.

(b) The operating plan shall be prepared as a loose leaf document to facilitate amendment as specified in Env-Wm 315.

(c) Each page of the operating plan shall bear the date of preparation or last revision, as applicable, and the facility name, location and permit number, if a permit is issued for the facility at the time that the operating plan or a modification thereto is prepared.

(d) The content and organizational format of the operating plan shall be as follows:

(1) Section 1, titled "facility identification," shall identify:

- a. The facility name, mailing address, location by street address and municipality, and permit number;
- b. The type of the facility;
- c. The capacity of the facility;
- d. The facility service type;
- e. The facility service area; and
- f. The name, address and telephone number of the permittee, property owner, and operator;

(2) Section 2, titled "authorized and prohibited waste," shall provide a list of:

- a. The specific waste types the facility which shall be authorized to receive; and
- b. The specific waste types the facility shall not be authorized to receive.

(3) Section 3, titled "routine operations plan," shall provide a detailed description of how the daily operations of the facility will be conducted to assure that the facility will be operated in accordance with the solid waste rules, including a description of:

- a. Hours of operations;
- b. Facility access control and on-site traffic patterns;
- c. Waste acceptance and rejection procedures, including unloading, sorting and inspection procedures;
- d. The procedure by which the quantity and source(s) of all wastes received by the facility shall be determined and recorded;
- e. The procedure by which the quantity and destination of all outgoing waste and certified waste-derived products shall be determined and recorded;
- f. The storage time and capacity limits for all wastes received by the facility and the procedures by which the limits shall be monitored to assure compliance therewith;

g. All collection, storage, transfer, processing, treatment and disposal methods and procedures employed by the facility for managing waste following receipt; and

h. For facilities that process or treat waste, the methods or procedures for managing bypass waste and the quality assurance/quality control procedures relating to the management of processed or treated waste.

(4) Section 4, titled "residual waste management plan," shall provide a detailed description of how all residual waste, if any, shall be managed by the facility, including the information specified in a. through d. below, or if the facility will not generate any residual waste, a statement so indicating.

a. The type and estimated quantity of all residual wastes to be generated by the facility;

b. How such wastes shall be managed at the facility prior to removal;

c. Information to demonstrate how the provisions of Env-Wm 2805.10 shall be met; and

d. Quality assurance/quality control provisions, to assure that the wastes to be transferred shall be acceptable to the receiving facility.

(5) Section 5, titled "facility maintenance, inspection and monitoring plan," shall identify all routine maintenance, inspection and monitoring requirements necessary to assure the integrity of facility operations, including a description of the measures to be undertaken to monitor and inhibit the following:

a. Spontaneous combustion;

b. Other fire hazards;

c. Vector production;

d. Generation of methane, hazardous and/or explosive gases;

e. Odors;

f. Dust;

g. Windblown litter;

h. Leachate; and

i. Spills.

(6) Section 6, titled "contingency plan," shall:

a. Identify all reasonably foreseeable emergencies, such as fire, explosion, operator injury, and the like, based on the type of facility and wastes being handled;

b. Describe the appropriate response of facility personnel for each emergency identified in a. above; and

c. Include identification of and telephone numbers for all local and state officials to be notified in the event of an emergency;

(7) Section 7, titled "employee training program," shall provide a description of employee training program(s); and

(8) Section 8, titled "recordkeeping and reporting," shall provide a description of record keeping procedures as necessary to comply with Env-Wm 2805.06 and Env-Wm 2805.07.

Source. #6619-B, eff 10-29-97

Env-Wm 2805.12 Interactions with Districts.

(a) During the active life of a facility, the permittee shall annually communicate with the host solid waste management district to assure that:

(1) All operating requirements established for the facility pursuant to the provisions of RSA 149-M:11,XI pertaining to the requirements of RSA 149-M:11,III(c) and RSA 149-M:12,I(b) are being met by the facility; and

(2) Facility operations meet other relevant planning needs and requirements identified or established by the district, to the extent allowed by the permit.

(b) The communication required by (a) above may be provided by sending to the district chairperson a copy of the facility's annual report with a cover letter identifying the purpose of the communication and soliciting a response by district officials concerning the requirements of (a) above.

Source. #6619-B, eff 10-29-97

Env-Wm 2805.13 Annual Report for Active Facilities, Content. For facilities that received waste during the reporting year, the annual report required by Env-Wm 2805.07(b) shall include the following:

(a) Facility name, location by street and municipality, and permit number;

(b) Name, address and telephone number of the permittee;

(c) Name, address, certificate number and telephone number of all facility operators;

(d) Status of the facility, including whether active or inactive and the estimated remaining life and capacity of the facility;

(e) Quantity in tons, type and source of all waste received by the facility, with out-of-state tonnage figures separately listed and totaled;

(f) Destination of all wastes received by the facility;

(g) Quantity, type and destination of all waste generated by the facility, including bypass and residual waste;

(h) For processing and treatment facilities producing certified waste-derived products:

(1) The quantity, type and market destination of each waste-derived product produced and distributed by the facility; and

(2) Certification that all waste-derived products distributed by the facility for use met the applicable standards for distribution and use pursuant to Env-Wm 3200 or, if not true, a detailed explanation of the situation and actions taken by the permittee to remedy the problem;

(i) For non-landfill facilities, the estimated quantity of waste stored at the facility, by type, as of the end of the calendar reporting year;

(j) A summary and assessment of environmental monitoring performed at the facility, whether required by the solid waste rules or the permit or undertaken voluntarily;

(k) Pursuant to the provisions of RSA 149-M:11,XI, a discussion of how facility operations satisfied the public benefit requirements specified in the permit, if any; and

(l) Other information, if any, identified as annual reporting information in:

- (1) Env-Wm 2100 through Env-Wm 2500 specific to the type of facility, as applicable; and
- (2) Env-Wm 2600 specific to the type(s) of waste managed by the facility, as applicable.

Source. #6619-B, eff 10-29-97

Env-Wm 2805.14 Annual Report for Inactive Facilities, Content. For facilities not receiving waste during the reporting year and either undergoing closure or having completed closure except for post-closure monitoring and maintenance obligations, the annual report required by Env-Wm 2805.07 shall include the following:

- (a) Facility name, location by street and municipality, and permit number;
- (b) Name and address of the permittee;
- (c) Name, address, certificate number and telephone number of all facility operators, if applicable;
- (d) Name, address, affiliation and telephone number of the person or persons responsible for managing all post-closure activities at the facility;
- (e) Facility status, including, as applicable:
 - (1) Date the facility discontinued receipt of waste;
 - (2) Commencement and completion dates for all construction activities at the facility related to the approved closure plan; and
 - (3) Anticipated or scheduled date for completing all required post-closure monitoring and maintenance activities;
- (f) A summary and assessment of all environmental monitoring performed at or for the facility, whether required by the solid waste rules or the permit or undertaken voluntarily, specifically including as applicable:
 - (1) Information identified as post-closure annual reporting information in Env-Wm 2100 through Env-Wm 2500 specific to the type of facility;
 - (2) Information identified as post-closure annual reporting information in Env-Wm 2600 specific to the type(s) of waste that were managed by the facility;
 - (3) Information concerning emergency events or other unexpected or unusual events at the facility relevant to assessing whether the facility is achieving post-closure performance expectations; and
 - (4) For a facility having post-closure obligations, an evaluation of the available environmental monitoring data and other information pertaining to facility conditions, including a statement by a qualified professional engineer identifying whether the facility is achieving post-closure performance expectations and whether adjustments to the approved post-closure monitoring and maintenance period and/or provisions are recommended in light of the performance evaluation.

Source. #6619-B, eff 10-29-97

PART Env-Wm 2806 ADDITIONAL CLOSURE REQUIREMENTS

Env-Wm 2806.01 Commencement of Closure Activities. Prior to commencing closure of a facility, the permittee shall file a notice of intent to close as described by Env-Wm 2806.02 and, for any closure activity involving construction, shall obtain construction approval pursuant to the provisions of Env-Wm 2804.

Source. #6619-B, eff 10-29-97

Env-Wm 2806.02 Notice of Intent to Close. The notice of intent to close shall include:

- (a) Facility identification;
- (b) Date the facility intends to stop receiving wastes;
- (c) A copy of the facility's approved closure plan or file reference thereto or, if there is no approved closure plan of record, three copies of a proposed closure plan prepared in accordance with Env-Wm 2806.04 and submitted with an application for a type I-B permit modification pursuant to Env-Wm 315;
- (d) If the provisions of the last approved closure plan of record are no longer applicable or no longer conform to the closure requirements of the solid waste rules, identification of such provisions and revisions in accordance with Env-Wm 315; and
- (e) The date the facility intends to commence closure activities.

Source. #6619-B, eff 10-29-97

Env-Wm 2806.03 Basic Facility Closure Requirements. A facility shall close in conformance with the solid waste rules and the provisions of an approved closure plan in conformance with Env-Wm 2806.04.

Source. #6619-B, eff 10-29-97

Env-Wm 2806.04 Closure Plan, Content and Format.

(a) A facility closure plan shall provide sufficient detail to allow a third party to implement and complete all required facility closure tasks in compliance with RSA 149-M, the permit and the solid waste rules without further explanation or guidance or as provided by (b) below.

(b) For a landfill closure plan prepared before the facility reaches final grades, the design plans and specifications for the capping system and related appurtenances shall be considered preliminary and need not provide final design detail sufficient to allow third party implementation without further explanation or guidance. However, any closure plan approved on the basis of preliminary plans shall include, in the list of closure tasks, provisions for preparing final design plans and specifications for the capping system and related appurtenances, as specified in Env-Wm 2507.

(c) The closure plan shall be prepared as a loose leaf document to facilitate amendment as specified in Env-Wm 315.

(d) Each page of the closure plan shall bear the date of preparation or revision, as applicable, and the facility name and permit number.

(e) The closure plan shall be organized and prepared as follows:

- (1) Section 1, titled "facility identification," shall provide the facility name, mailing address, location and permit number;
- (2) Section 2, titled "closure schedule," shall provide the anticipated date of closure and a closure schedule that sets forth each discrete activity that will be undertaken to complete facility closure, the order in which the activities will be undertaken and the estimated length of time the activity will take;

(3) Section 3, titled "waste identification," shall identify all types of waste received or intended to be received by the facility during its active life;

(4) Section 4, titled "notifications," shall provide a description of how notice shall be given to facility users prior to terminating receipt of waste;

(5) Section 5, titled "closure requirements," shall provide:

- a. A list of each major closure work task required to implement and complete closure of the facility;
- b. A description of the procedures for completing all required closure work tasks; and
- c. Design plans and specifications for construction of required closure systems;

(6) Section 6, titled "post-closure requirements," shall identify and describe all required post-closure testing, inspection, maintenance or monitoring that will be performed at the facility pursuant to the provisions of the solid waste rules and the permit;

(7) Section 7, titled "recordkeeping and reporting," shall identify and describe:

- a. All recordkeeping and reporting obligations required of the facility following completion of the closure work identified in section 5 of the closure plan; and
- b. Locations and provisions for storing facility records, including the operating records, following facility closure;

(8) Section 8, titled "other permits," shall:

- a. Identify all other local, state and federal permits and approvals required to implement facility closure, including the implementation of all post-closure monitoring and maintenance requirements;
- b. Identify the status of each permit and approval identified pursuant to a. above; and
- c. For a landfill located on property not owned by the permittee, include a copy of the written executed access agreement required by Env-Wm 2703.03;

(9) Section 9, titled "closure cost estimate," shall provide a closure cost estimate prepared in accordance with the criteria in Env-Wm 3103.02.

Source. #6619-B, eff 10-29-97

Env-Wm 2806.05 Temporary Cessation of Facility Construction or Operations.

(a) A permittee shall be deemed to have abandoned the use of a facility if no wastes are received, processed or treated at the facility or if development of a facility under construction is discontinued for a period of 90 days, except as provided by (b) below.

(b) A facility shall not be deemed abandoned if the permittee provides written notice to the department identifying the conditions for the temporary cessation of operation and identifies the provisions for resuming operation or construction of the facility, including the following information:

- (1) Facility name, location by street and municipality, and permit number;
- (2) Activity(s) being temporarily discontinued;
- (3) Reason for the temporary discontinuance of activity(s);

(4) Date activities are anticipated to resume; and

(5) Provisions which shall be undertaken to protect the environment, public health and safety during the temporary discontinuance.

(c) Following notice of temporary cessation, the department shall notify the permittee whether additional actions shall be required to secure the facility and site to prevent adverse impact to the environment, public health and safety, based on information provided in the notice and other available information concerning the status of the facility.

(d) Failure by the permittee to take action to secure the facility and site as specified shall require the permittee to implement closure in accordance with the solid waste rules and the permit.

Source. #6619-B, eff 10-29-97

CHAPTER Env-Wm 2900 PERMIT-BY-NOTIFICATION FACILITY REQUIREMENTS

Statutory Authority: RSA 149-M:7

PART Env-Wm 2901 PURPOSE AND APPLICABILITY

Env-Wm 2901.01 Purpose. The purpose of the rules in this chapter is to:

(a) Prescribe the requirements and limitations for siting, designing, constructing, operating and closing a facility under the provisions of a permit-by-notification issued pursuant to Env-Wm 311; and

(b) Ensure, through the prescribed requirements and limitations, that permit-by-notification facilities shall be sited, designed, operated and closed in a manner that does not endanger the public health or adversely affect the environment and which minimizes the potential for accidents that could lead to personal injury or property damage.

Source. #6619-B, eff 10-29-97

Env-Wm 2901.02 Applicability. The rules in this chapter shall apply as specified in Env-Wm 101.02(c) to all permit-by-notification facilities.

Source. #6619-B, eff 10-29-97

PART Env-Wm 2902 GENERAL REQUIREMENTS

Env-Wm 2902.01 Universal Requirements. All permit-by-notification facilities shall comply with the following:

(a) The universal facility requirements in Env-Wm 2700;

(b) The waste specific requirements in Env-Wm 2600 as applicable to the type of waste managed by the facility; and

(c) The requirements of this chapter.

Source. #6619-B, eff 10-29-97

Env-Wm 2902.02 Requirements for Operating Longer than 90-days.

(a) A permit-by-notification facility, having an active life longer than 90 days, shall comply with the requirements in Env-Wm 2800, with the following exceptions:

(1) There shall be no requirement to submit final design plans and specifications for construction approval;

(2) There shall be no requirement to submit an operating plan, provided that:

a. A written operating plan which meets the requirements of Env-Wm 2805.11 is prepared prior to operating the facility;

b. The operating plan is available for use by the facility operator(s) and for inspection by the department pursuant to Env-Wm 3700;

c. The permittee submits in the permit application a signed statement which attests to the existence of the plan, and certifies that the plan meets the requirements of Env-Wm 2805.11; and

d. The facility operates in compliance with the solid waste rules and the permit; and

(3) There shall be no requirement to submit a closure plan, provided that:

- a. A written closure plan that meets the requirements of Env-Wm 2806.04 is prepared prior to operating the facility;
- b. The closure plan is available for use by the facility operator(s) and for inspection by the department pursuant to Env-Wm 3700;
- c. The permittee submits in the permit application a signed statement which attests to the existence of the plan, and certifies that the plan meets the requirements of Env-Wm 2806.04; and
- d. The facility closes in compliance with the solid waste rules and the permit.

(b) A non-landfill permit-by-notification facility having an active life longer than 90 days shall comply with the following:

- (1) Env-Wm 2103 through Env-Wm 2106, if the facility is a collection, storage and transfer facility identified in Env-Wm 2107;
- (2) Env-Wm 2203 through Env-Wm 2206, if the facility is a processing or treatment facility identified in Env-Wm 2207 or a composting facility identified in Env-Wm 2307 or an incinerator identified in Env-Wm 2407;
- (3) Env-Wm 2303 through Env-Wm 2306, if the facility is a composting facility identified in Env-Wm 2307; and
- (4) Env-Wm 2403 through Env-Wm 2406, if the facility is an incinerator identified in Env-Wm 2407.

(c) A permit-by-notification landfill shall not be permitted to have an active life longer than 90 days unless:

- (1) The facility is located on publicly owned land;
- (2) The permittee is a government agency or unit or a political subdivision of the state; and
- (3) Vehicular access to the facility is physically restricted at all times when a facility operator is not present.

Source. #6619-B, eff 10-29-97

Env-Wm 2902.03 Consecutive Permits Prohibited. Consecutively dated permits-by-notification shall not be issued to a facility as a means to avoid obtaining a standard permit pursuant to the solid waste rules or as a means to avoid any requirement specified in Env-Wm 2902.02.

Source. #6619-B, eff 10-29-97

Env-Wm 2902.04 Obligation to Obtain Other Approvals. The existence of a permit-by-notification shall not affect a person's obligation to obtain all requisite federal, state or local permits, licenses or approvals, or to comply with all other applicable federal, state, district or local permits, ordinances, laws or approvals or conditions pertaining to the permit-by-notification activities.

Source. #6619-B, eff 10-29-97

Env-Wm 2902.05 Permittee and Operator Qualifications.

- (a) The permittee and facility owner shall be one in the same.

- (b) The permittee shall be in responsible charge of operating the facility.
- (c) The permittee shall be able to provide compliance certification pursuant to Env-Wm 303.14.
- (d) If the facility has an active life longer than 90 days, the operator(s) shall be certified pursuant to Env-Wm 3300.

Source. #6619-B, eff 10-29-97; amd by #6894-B, eff 12-1-98

Env-Wm 2902.06 Permit Transfer Limitations and Requirements.

- (a) A permit-by-notification shall be non-transferable, except as provided in (d) below.
- (b) In the event a permit-by-notification facility will be sold or otherwise conveyed to a second party, the second party shall apply pursuant to Env-Wm 311 to obtain a new permit-by-notification for the facility if the second party intends to continue operating the facility.
- (c) If the second party does not obtain a new permit-by-notification to continue operating the facility, the permittee of record shall close the facility in accordance with the solid waste rules and the permit prior to conveying the facility to the second party.
- (d) In the case of a closed permit-by-notification landfill, the following shall apply:
 - (1) The applicable permit-by-notification shall be automatically transferred to the new property owner upon conveyance of the property to a new owner;
 - (2) Prior to conveyance, the permittee of record shall disclose the existence of the closed facility to the potential new owner and inform the potential new owner of all permit obligations related thereto; and
 - (3) Failure to provide such disclosure shall not alleviate a new owner, as permittee, from meeting any regulatory obligation relating to the facility.

Source. #6619-B, eff 10-29-97

PART Env-Wm 2903 SITING REQUIREMENTS

Env-Wm 2903.01 Location Restrictions, New Permit-by-Notification Facilities. The following restrictions shall apply to siting all new permit-by-notification facilities:

- (a) The facility shall not be sited on property that is subject to any on-going enforcement action by the department, unless the facility is approved by the department as part of the enforcement action and a copy of the approval is submitted with the application for the related permit-by-notification;
- (b) The facility shall not be sited within 50 feet of any property line;
- (c) The facility shall not be sited in a flood plain;
- (d) The facility shall be sited in conformance with Env-Wm 2703; and
- (e) If the facility has an active life longer than 90 days, it shall be sited in conformance with Env-Wm 2802.

Source. #6619-B, eff 10-29-97; ss by #6894-B, eff 12-1-98

Env-Wm 2903.02 Additional Location Restrictions for Landfills.

- (a) A permit-by-notification landfill shall not be sited less than 75 feet to surface water, and wetlands;

(b) A permit-by-notification landfill shall be located to provide at least 4 feet of vertical separation between the base of the disposal area and the seasonal high groundwater table;

(c) A permit-by-notification landfill shall be located to provide at least 4 feet of vertical separation between the base of the disposal area and bedrock; and

(d) A permit-by-notification landfill shall not be sited less than 50 feet from the footprint of any landfill which is not yet capped.

(e) A permit-by-notification landfill having an active life longer than 90 days shall be sited on publicly owned land only.

Source. #6619-B, eff 10-29-97

PART Env-Wm 2904 OPERATING REQUIREMENTS

Env-Wm 2904.01 General Operating Requirements. A permit-by-notification facility shall comply with the universal operating requirements in Env-Wm 2705 and the requirements of this part.

Source. #6619-B, eff 10-29-97

Env-Wm 2904.02 Authorized Waste. A permit-by-notification facility shall receive only those wastes specifically authorized in Env-Wm 2107, Env-Wm 2207, Env-Wm 2307, Env-Wm 2407 or Env-Wm 2509, as applicable to the type of facility being permitted.

Source. #6619-B, eff 10-29-97

Env-Wm 2904.03 Prohibited Waste. A permit-by-notification facility shall not receive the following types of solid waste:

- (a) Asbestos waste;
- (b) Explosive waste;
- (c) Contained gaseous waste, unless collected for recycling;
- (d) Liquid waste;
- (e) Infectious waste, except for those facilities explicitly authorized by the provisions of Env-Wm 2207;
- (f) Animal carcasses;
- (g) Contaminated soils and other absorbent media; and
- (h) Out-of-state waste, unless the waste is received for recycling, not incineration or disposal.

Source. #6619-B, eff 10-29-97; ss by #7225, eff 3-31-00

Env-Wm 2904.04 Capacity Limits.

(a) The capacity of a permit-by-notification facility shall be limited to that which is specified in Env-Wm 2107, Env-Wm 2207, Env-Wm 2307, Env-Wm 2407 and Env-Wm 2509, as applicable to the type of facility being permitted.

(b) To assure compliance with RSA 149-M:11,IV(a), no permit-by-notification facility shall receive greater than 30 tons of waste per day as averaged over the active life of the facility.

Source. #6619-B, eff 10-29-97

Env-Wm 2904.05 Landfill Operating Requirements. The following requirements shall apply to operating all permit-by-notification landfills:

(a) At all times during facility operations, the permittee shall maintain cover materials at the site in a quantity sufficient to comply with all daily and final cover requirements specified by the solid waste rules, except publicly owned facilities with an active life longer than 90 days may maintain the cover materials at other locations readily accessible to the site and permittee;

(b) Only soil shall be used as cover material;

(c) Waste shall be placed, compacted and covered in a manner as to eliminate voids, limit settlement and otherwise limit the potential for sink-holes or surface openings to develop; and

(d) Waste shall be placed only within the vertical and lateral limits of the facility as identified on a plan submitted in the permit application pursuant to Env-Wm 311 and approved by the department by permit issuance.

Source. #6619-B, eff 10-29-97

PART Env-Wm 2905 CLOSURE REQUIREMENTS

Env-Wm 2905.01 Non-landfill Closure Requirements.

(a) A permit-by-notification non-landfill shall close in conformance with Env-Wm 2706.

(b) All waste shall be removed to an authorized facility that is not another permit-by-notification facility; and

(c) Closure shall be completed within 30 days following the date of last waste receipt or before the expiration date of the permit, whichever is earlier.

Source. #6619-B, eff 10-29-97

Env-Wm 2905.02 Landfill Closure Requirements.

(a) A permit-by-notification landfill shall close in conformance with Env-Wm 2706.

(b) At least 2 feet of compacted soil shall be placed as final cover over all landfilled waste;

(c) If a greater depth than identified in (b) above is specified for the particular facility type in Env-Wm 2509, the greater depth shall be provided;

(d) Final cover shall be compacted, graded, seeded and mulched in a manner as to produce and sustain vegetative growth and/or otherwise stabilized to prevent erosion;

(e) Closure shall be completed within 30 days following the date of last waste receipt or before the expiration date of the permit, whichever is earlier, except as provided by (f) below;

(f) If the date of last waste receipt falls within a time period where seasonal factors prevent closure by the date specified in (e) above, the permittee may delay closure provided that:

(1) Within 10 days following the date of last waste receipt, the permittee provides a written notice to the department specifying:

a. The facility has ceased receiving waste;

b. Closure cannot be completed as required in (e) above due to seasonal factors; and

c. The date by which closure will be completed as required by (4) below;

(2) The permittee shall control access to the facility by gates and bars or other means appropriate to the site to prevent unauthorized entry and dumping during the inactive, pre-closure period;

(3) The permittee shall take such action as necessary to otherwise secure the site against potential harm to the environment, human health and safety during the inactive, pre-closure period; and

(4) The permittee shall implement closure as soon as practicable under the circumstances.

(g) Following closure, the permittee shall assure that the integrity of the cover materials is maintained, that voids and sink holes do not develop, and that the site is otherwise protective of the environment, public health and safety;

(h) The permittee shall regularly inspect the facility and, when necessary, implement repairs and/or take other remedial action to achieve and maintain compliance with the requirements of (g) above; and

(i) In the event the disposal area is disturbed for any reason after closure, the permittee shall subsequently restore the area pursuant to (b) through (d) above.

(j) If buried waste is removed from a permit-by-notification landfill, the permittee shall dispose of the removed waste at an authorized facility.

Source. #6619-B, eff 10-29-97

Env-Wm 2905.03 Notification of Closure. Upon completion of all required closure activities at a permit-by-notification facility, the permittee shall certify in writing to the department that closure has been completed as required by the solid waste rules.

Source. #6619-B, eff 10-29-97

CHAPTER Env-Wm 3000 PUBLIC GRANTS FOR LANDFILL AND INCINERATOR CLOSURE

PART Env-Wm 3001 PURPOSE & APPLICABILITY

Env-Wm 3001.01 Purpose. The purpose of the rules in this chapter is to:

- (a) Implement RSA 149-M:41-50, which authorizes state grants to municipalities to encourage and assist them in closing unlined solid waste landfills and certain municipal incinerators; and
- (b) Supplement RSA 149-M:41-50.

Source. #6095, eff 9-26-95; ss by #7492, eff 5-18-01

Env-Wm 3001.02 Applicability. The rules in this chapter shall apply to:

- (a) Unlined municipal solid waste landfills, owned by New Hampshire municipalities and closed after July 1, 1984; and
- (b) Municipal incinerators identified in RSA 149-M:42,IV.

Source. #6095, eff 9-26-95; ss by #7492, eff 5-18-01

PART Env-Wm 3002 COSTS ELIGIBLE FOR REIMBURSEMENT

Env-Wm 3002.01 Purpose. The rules in this part specify the criteria by which the department determines whether costs incurred by a municipality to close a facility identified in Env-Wm 3001.02 are costs eligible for a 20% reimbursement through issuance of a grant.

Source. #7492, eff 5-18-01

Env-Wm 3002.02 Eligible Costs. A cost of facility closure shall be eligible for a 20% reimbursement through issuance of a grant, provided that:

- (a) The cost meets the provisions of RSA 149-M:42, III;
- (b) The municipality has paid the cost using funds raised by the municipality through taxation or loans approved by the voting members of the municipality; and
- (c) The costs are not covered by other funds such as identified in Env-Wm 3003.02(h) or Env-Wm 3004.02(h).

Source. #7492, eff 5-18-01

PART Env-Wm 3003 APPLICATIONS FOR LANDFILL CLOSURE GRANTS

Env-Wm 3003.01 Applicability. The rules in this part shall apply to a municipality that has completed, or is in the process of completing, closure of a landfill identified in Env-Wm 3001.02(a) and is seeking to be reimbursed for related eligible costs as specified by Env-Wm 3002.02.

Source. #7492, eff 5-18-01

Env-Wm 3003.02 Grant Applications. A municipality seeking to be reimbursed for landfill closure costs shall submit a grant application that contains the following information:

- (a) Name, mailing address, and telephone number of the grant applicant;
- (b) Name and location of the landfill for which the grant award is being requested;
- (c) Landfill permit number, issued pursuant to RSA 149-M;

(d) Groundwater release detection or groundwater management permit number, issued pursuant to RSA 485-C;

(e) A photocopy of the warrant article, corporate resolution, or other legally binding document authorizing the municipality to undertake the closure project;

(f) Closure project information, including:

(1) Name of engineering consultant;

(2) Name of construction contractor;

(3) Bid advertisement date;

(4) Contract award date; and

(5) Construction start date;

(g) A schedule of the closure costs for which 20% reimbursement is being requested, with related supporting documentation necessary to substantiate that the costs are eligible costs as specified in Env-Wm 3002.02, including:

(1) Copies of all related authorized contracts, change orders, and amendments thereto;

(2) Copies of all related invoices; and

(3) Proof of payment;

(h) Eligible cost financing information, including:

(1) Total eligible costs paid in cash;

(2) Total eligible costs paid through financing;

(3) Copies of the related institution-generated finance schedules; and

(4) Monies received from third party sources and used to close the landfill, including but not limited to funds from the following sources:

a. U.S. Farmers Home Administration;

b. U.S. Rural Development Administration;

c. U.S. Department of Housing and Urban Development

d. Community development block grants;

e. Potentially responsible party groups formed to collectively participate in the closure of the landfill; and

f. Insurance policy proceeds;

(i) If closure construction is complete, certification of completion by a qualified professional engineer and acceptance of the closure project by the municipality pursuant to Env-Wm 2804.07(f);

(j) If closure construction is not complete, the estimated future eligible closure costs and related financing obligations; and

(k) A notarized statement, signed by a duly authorized representative for the applicant, affirming that:

(1) The applicant meets the requirements specified in RSA 149-M:46; and

(2) The material and information submitted is correct and complete to the best of the applicant's knowledge and belief.

Source. #7492, eff 5-18-01

PART Env-Wm 3004 APPLICATIONS FOR INCINERATOR CLOSURE GRANTS

Env-Wm 3004.01 Applicability. The rules in this part shall apply to a municipality that has completed closure of an incinerator identified in Env-Wm 3001.02(b) and is seeking to be reimbursed for related eligible costs as specified by Env-Wm 3002.02.

Source. #7492, eff 5-18-01

Env-Wm 3004.02 Grant Applications. A municipality seeking to be reimbursed for incinerator closure costs shall submit a grant application that contains the following information:

(a) Name, mailing address, and telephone number of the grant applicant;

(b) Name and location of the incinerator for which the grant award is being requested;

(c) Incinerator permit number, issued pursuant to RSA 149-M;

(d) Groundwater release detection or groundwater management permit number if applicable, issued pursuant to RSA 485-C;

(e) A photocopy of the warrant article, corporate resolution, or other legally binding document authorizing the municipality to undertake the closure project;

(f) Closure project information, including:

(1) Name of engineering consultant;

(2) Name of construction contractor;

(3) Bid advertisement date;

(4) Contract award date;

(5) Construction start date; and

(6) Construction completion date;

(g) A schedule of the closure costs for which 20% reimbursement is being requested, with related supporting documentation to substantiate that the costs are eligible costs as specified in Env-Wm 3002.02, including:

(1) Copies of all related authorized contracts, change orders, and amendments thereto;

(2) Copies of all related invoices; and

(3) Proof of payment;

(h) Eligible cost financing information, including:

- (1) Total eligible costs paid in cash;
- (2) Total eligible costs paid through financing;
- (3) Copies of the related institution-generated finance schedules; and
- (4) Monies received from third party sources and used to close the incinerator, including but not limited to funds from the following sources
 - a. U.S. Farmers Home Administration;
 - b. U.S. Rural Development Administration;
 - c. U.S. Department of Housing and Urban Development;
 - d. Community development block grant;
 - e. Potentially responsible party groups formed to collectively participate in the closure of the incinerator; and
 - f. Insurance policy proceeds;
- (i) Certification of completion by a qualified professional engineer and acceptance of the closure project by the municipality pursuant to Env-Wm 2804.07(f); and
- (j) A notarized statement, signed by a duly authorized representative for the applicant, affirming that:
 - (1) The applicant meets the requirements specified in RSA 149-M:46; and
 - (2) The material and information submitted is correct and complete to the best of the applicant's knowledge and belief.

Source. #7492, eff 5-18-01

PART Env-Wm 3005 APPLICATION FILING AND PROCESSING

Env-Wm 3005.01 Purpose. The rules in this part specify requirements for filing and processing a grant application.

Source. #7492, eff 5-18-01

Env-Wm 3005.02 Application Filing. A grant application shall be submitted to the department, in writing, by the applicant on forms provided by the department.

Source. #7492, eff 5-18-01

Env-Wm 3005.03 Application Processing. The department shall process an application in accordance with RSA 541-A:29.

Source. #7492, eff 5-18-01

Env-Wm 3005.04 Application Decision.

- (a) A grant application shall be approved if the application is complete pursuant to the provisions of Env-Wm 3003 and Env-Wm 3004.
- (b) A municipality having an approved grant application shall be eligible to receive a grant.

(c) Grants, not to exceed 20% of the eligible costs associated with an approved application, shall be awarded and disbursed as specified in Env-Wm 3006 and Env-Wm 3007.

Source. #7492, eff 5-18-01

PART Env-Wm 3006 GRANT AWARDS

Env-Wm 3006.01 Purpose. The rules in this part specify the criteria by which a grant shall be awarded to a municipality that has an approved grant application as specified in Env-Wm 3003 and 3004.

Source. #7492, eff 5-18-01

Env-Wm 3006.02 Grant Priorities. A grant shall be awarded in a manner consistent with the priorities established in RSA 149-M:47 and RSA 149-M:49.

Source. #7492, eff 5-18-01

Env-Wm 3006.03 Grant Funding. A grant shall be awarded based on funding pursuant to RSA 149-M:50.

Source. #7492, eff 5-18-01

PART Env-Wm 3007 DISBURSEMENT OF GRANT AWARDS

Env-Wm 3007.01 Purpose. The rules in this part specify how the department disburses grant monies to a municipality following the award of a grant.

Source. #7492, eff 5-18-01

Env-Wm 3007.02 Financed Eligible Costs. Subject to Env-Wm 3007.04, grant awards for eligible costs that the municipality has paid through financing shall:

- (a) Be paid by the department on a schedule that corresponds to the municipality's payback schedule;
- (b) Include 20% of the principal payment associated with the eligible costs; and
- (c) Include 20% of the debt service payment associated with the eligible costs.

Source. #7492, eff 5-18-01

Env-Wm 3007.03 Eligible Costs Paid With Cash. Subject to Env-Wm 3007.04 and Env-Wm 3008.03, grant awards for eligible costs that the municipality has paid with cash shall:

- (a) Be paid by the department as a single payment following grant approval; and
- (b) Not exceed 20% of the eligible costs.

Source. #7492, eff 5-18-01

Env-Wm 3007.04 Failure to Comply. Failure to comply with RSA 149-M:46 shall result in loss of grant payment.

PART Env-Wm 3008 ADJUSTMENTS TO GRANT AWARDS

Env-Wm 3008.01 Purpose. The rules in this part specify how the department adjusts the value of a municipality's grant award following the municipality's receipt or expenditure of funds for facility closure not previously identified in the grant application.

Source. #7492, eff 5-18-01

Env-Wm 3008.02 Adjustments Due to Receipt of New Third Party Funds.

(a) The department shall adjust future financed grant award payments to reflect the receipt of additional funds by a municipality from a third party relating to the closure project.

(b) For grant awards previously paid in a lump sum, or financed grant awards for which all amortized grant payments have been made, the municipality shall reimburse the state for the amount of excess grant money received as a result of receiving additional funds from a third party relating to the closure project.

Source. #7492, eff 5-18-01

Env-Wm 3008.03 Adjustments Due to New Expenditures.

(a) A municipality seeking to be reimbursed for the expenditure of funds for facility closure not previously disclosed in a grant application shall:

(1) File a landfill closure grant application for the additional landfill expenditures as specified in Env-Wm 3003; or

(2) File an incinerator closure grant application for the additional incinerator expenditures as specified in Env-Wm 3004.

(b) The application shall be processed in accordance with Env-Wm 3005 and Env-Wm 3006.

(c) The department shall adjust future financed grant award payments to reflect the expenditure of additional funds by a municipality for eligible costs relating to the closure project.

(d) The department shall adjust grant awards previously paid in a lump sum, or financed grant awards for which all amortized grant payments have been made, by reimbursing the municipality in a lump sum any shortage of grant award money due.

Source. #7492, eff 5-18-01

Env-Wm 3008.04 Notification of Receipt of Additional Funds.

(a) A municipality which received a grant award paid in a lump sum, or a grant award for which all amortized grant payments have been made, shall notify the department within 30 days following the receipt or expenditure of funds for facility closure not previously disclosed to the department.

(b) A municipality scheduled to receive future financed grant award payments shall disclose to the department within 30 days of a scheduled grant payment, whether the municipality has received or expended additional funds for facility closure not previously disclosed to the department.

Source. #7492, eff 5-18-01

CHAPTER Env-Wm 3100 FINANCIAL ASSURANCE

Statutory Authority: RSA 149-M:7

PART Env-Wm 3101 PURPOSE AND APPLICABILITY

Env-Wm 3101.01 Purpose. The purpose of the rules in this chapter is to identify requirements and procedures for providing and maintaining a financial assurance plan to guarantee the cost of closing a facility and, for a facility subject to 40 CFR 258.58, the cost of corrective action.

Source. #6619-B, eff 10-29-97

Env-Wm 3101.02 Applicability.

(a) The rules in this chapter shall apply as specified in Env-Wm 101.02(c) to all facilities, except as provided by (b) below.

(b) The rules in this chapter shall not apply to a:

- (1) Permit-exempt facility;
- (2) Permit-by-notification facility;
- (3) Facility for which the closure cost estimate, prepared in accordance with Env-Wm 3103.02, is \$3000 or less;
- (4) Emergency permit facility; and
- (5) Limited private non-landfill facility.

Source. #6619-B, eff 10-29-97

PART Env-Wm 3102 DEFINITIONS

Env-Wm 3102.01 "Binding commitment" means a signed loan agreement between the permittee and the state of New Hampshire and approved by the governor and council.

Source. #6619-B, eff 10-29-97

Env-Wm 3102.02 "Debt service" means the amount of principal and interest due on a loan in the current year.

Source. #6619-B, eff 10-29-97

Env-Wm 3102.03 "Deficit" means a negative balance calculated by taking the beginning fund balance plus annual revenue minus total annual expenditures.

Source. #6619-B, eff 10-29-97

Env-Wm 3102.04 "Local government" means a legally-recognized political subdivision in the state of New Hampshire, including solid waste districts, whose revenue is generated by the same voters as are responsible for the closure of the regulated municipal solid waste landfill facility.

Source. #6619-B, eff 10-29-97

Env-Wm 3102.05 "Total revenues" means proceeds from all taxes and fees collected by the local government responsible for landfill closure, but does not include the proceeds from borrowing or asset sales or proceeds earned from funds managed by local government on behalf of a specific third party.

Source. #6619-B, eff 10-29-97

PART Env-Wm 3103 FINANCIAL ASSURANCE REQUIREMENTS

Env-Wm 3103.01 Financial Assurance Plan.

(a) A permittee shall establish, implement and maintain an approved financial assurance plan to guarantee the cost of facility closure.

(b) A financial assurance plan shall include:

(1) A closure cost estimate prepared in accordance with Env-Wm 3103.02;

(2) Provisions for guaranteeing the cost of facility closure based on one or any combination of the options specified in Env-Wm 3103.03 through Env-Wm 3103.06;

(3) For the options specified in Env-Wm 3103.03, the identity of the financial institution providing the guarantee; and

(4) For a local government proposing to use the state approved financial test to assure its obligations, as provided in Env-Wm 3103.03:

a. A letter signed by the local government's chief financial officer which:

1. Identifies all current cost estimates covered by a financial test, as described in Env-Wm 3103.05; and

2. Provides evidence of and certifies that the local government meets the conditions of Env-Wm 3103.05 (a) through (h);

b. The local government's year-end financial statements for the latest fiscal year, audited by an independent, certified public accountant (CPA) who conducts comprehensive audits, with:

1. The unqualified opinion of the auditor; or

2. The qualified opinion of and a written explanation by the auditor as to why the qualification should be deemed insufficient to warrant disallowance of the financial test;

c. A report to the local government by the local government's independent CPA, as follows:

1. The report shall be based on performing a review of the financial ratios required by Env-Wm 3103.05(a)(3), if applicable, and the requirements of Env-Wm 3103.05(b) and Env-Wm 3103.05(c)(3) and (4);

2. The report shall state the procedures performed and the CPA's findings; and

d. A copy of the comprehensive annual financial report (CAFR) used to comply with Env-Wm 3103.05 (d) or certification that the requirements of General Accounting Standards Board Statement 18, No. 101-A, published August, 1993 have been met.

(c) A proposed financial assurance plan shall be:

(1) Submitted by the permittee in accordance with Env-Wm 303; and

(2) Reviewed and approved by the department pursuant to Env-Wm 3104.

Source. #6619-B, eff 10-29-97

Env-Wm 3103.02 Closure Cost Estimation.

(a) The dollar amount guaranteed by a financial assurance plan shall be no less than the estimated total closure costs determined pursuant to (b) through (g) below.

(b) The closure cost estimate shall be figured based on representative current market rates for having a third party perform all required closure and post-closure activities at the point in the facility's active life when the extent and manner of facility operations in compliance with permit conditions and applicable laws and rules makes closure the most expensive, as indicated by the approved facility closure plan.

(c) For a landfill constructed in phases, the permittee may figure closure costs in accordance with (b) above based on the constructed area of the facility only, instead of the entire permitted footprint.

(d) Any facility subject to the corrective action requirements specified in 40 CFR 258.58, shall comply with the financial assurance requirements specified in 40 CFR Subpart G.

(e) The cost of removing and disposing of all wastes not permitted to remain at the facility following closure shall be included in the closure cost estimate, excluding actively managed select processed recyclable materials.

(f) Salvage value from the sale of facility structures, equipment or other assets associated with the facility and profits from the sale of recyclable materials shall not be treated as a credit to reduce total closure costs.

(g) The closure cost estimate shall:

(1) Be itemized and documented to show the unit cost and quantity of each item, service, and activity required to close the facility in accordance with the solid waste rules and the approved facility closure plan.

(2) Include a line item for contingencies equaling no less than 10% of the total itemized costs; and

(3) For landfills, include the following costs if final design plans and specifications for landfill closure are not yet approved, include a line item for:

a. The cost of preparing final design plans and specifications for closure; and

b. The cost of the fee specified in Env-Wm 310.08(b) for filing an application for a type II permit modification to obtain final design plan approval for construction of all required landfill closure systems; and

(4) For landfills, be certified by a qualified professional engineer.

Source. #6619-B, eff 10-29-97

Env-Wm 3103.03 Financial Assurance Mechanisms, All Facilities.

(a) Financial assurance shall be provided in one, or any combination, of the following forms:

(1) An irrevocable letter of credit issued for a period of at least one year from an institution whose operations are regulated and examined by a federal or New Hampshire state agency;

(2) An insurance policy, except that insurance issued by an affiliated captive insurance company shall not be acceptable;

(3) A surety bond, issued by a surety company listed as an acceptable surety on federal bonds in Circular 570 of the U.S. Department of the Treasury;

(4) A trust fund established in accordance with the laws of the state of New Hampshire;

(5) For a landfill, a binding commitment between the permittee and the state of New Hampshire for a state revolving fund loan designated for closure of the landfill; or

(6) Another mechanism that meets the criteria provided in 40 CFR 258.74(i).

(b) If using a surety bond, insurance policy or letter of credit, the permittee shall also establish a standby trust to receive the proceeds of the surety bond, insurance policy or letter of credit.

(c) Each financial assurance instrument specified in (a) and (b) above, except (a)(5), shall specifically identify the state of New Hampshire as the beneficiary.

(d) Funds held in trust accounts may be invested, but shall provide for the preservation of principal.

(e) Financial assurance documents, including a standby trust, shall be in a form comparable to the text specified by 40 CFR 264, with the following revisions:

(1) The phrase "hazardous waste" shall be replaced with the phrase "solid waste";

(2) The phrase "EPA administrator" shall be replaced with the phrase "department on behalf of the state of New Hampshire";

(3) All cites to "40 CFR" shall be replaced with "RSA 149-M and the solid waste rules"; and

(4) The term "RCRA C" shall be omitted.

(f) Letters of credit shall include a provision to automatically extend the expiration date by at least one year unless, at least 120 days before the current expiration date, the issuing institution notifies the permittee and the department by certified mail, return receipt requested, of a decision to not extend the expiration date.

(g) Insurance policies and surety bonds shall include a provision to prohibit any cancellation without prior notice of cancellation being sent to the permittee and the department by certified mail, return receipt requested, at least 120 days before the effective date of cancellation.

Source. #6619-B, eff 10-29-97

Env-Wm 3103.04 Financial Assurance Mechanisms, Public Facilities.

(a) A public facility not subject to 40 CFR 258 shall provide proof of financial assurance:

(1) In accordance with Env-Wm 3103.03; or

(2) Through an alternative comprehensive plan which guarantees that all funds for the estimated facility closure costs shall be readily available for closure activities.

(b) A public facility subject to 40 CFR 258 shall provide proof of financial assurance using:

(1) The mechanisms identified in Env-Wm 3103.03;

(2) The local government financial test specified in Env-Wm 3103.05, if qualified pursuant to (c) below; or

(3) The local government guarantee specified in Env-Wm 3103.06 if qualified pursuant to (c) below.

(c) A public facility shall be qualified to use a financial assurance mechanism specified in Env-Wm 3103.05 and Env-Wm 3103.06 if the facility is:

(1) Qualified for the state 20% landfill closure grant program as determined in accordance with Env-Wm 3000; and

(2) Subject to a closure schedule approved by the department reflecting completion of closure construction by December 31, 2003.

Source. #6619-B, eff 10-29-97

Env-Wm 3103.05 Local Government Financial Test.

(a) A local government proposing to assure its obligations under the state approved local government financial test shall meet the following requirements as applicable:

(1) If the local government has outstanding, rated, general obligation bonds not secured by insurance, a letter of credit, or other collateral or guarantee, all such general obligation bonds shall have a current rating of Aaa, Aa, A, or Baa, as issued by Moody's, or AAA, AA, A, or BBB, as issued by Standard and Poor's; or

(2) The local government shall be included in an outstanding bond issue through the New Hampshire municipal bond bank and shall not be in default; or

(3) The local government shall satisfy each of the following financial ratios based on the local government's most recent audited annual financial statement:

a. The ratio of cash plus marketable securities to total expenditures shall be greater than or equal to 0.05, using available cash and marketable securities held by the local government on the last day of the fiscal year, excluding cash and marketable securities designated to satisfy past obligations or special purposes other than landfill closure such as pensions and capital reserve funds not held for landfill closure purposes; and

b. The ratio of annual debt service to total expenditures shall be less than or equal to 0.20, where total expenditures shall exclude capital outlays, debt repayment, capital reserve funds not expended for landfill closure purposes, trust funds, and pension funds.

(b) The local government proposing to assure its obligations under the state approved local government financial assurance test shall:

(1) Prepare its financial statements in conformity with Generally Accepted Accounting Principles for Governments; and

(2) Have its financial statements audited by an independent certified public accountant.

(c) A local government shall not be eligible to assure its obligations under the state approved local government financial test if it:

(1) Is currently in default on any outstanding general obligation bonds or outstanding bonds with the New Hampshire municipal bond bank; or

(2) Has any outstanding general obligation bonds rated lower than Baa as issued by Moody's or BBB as issued by Standard and Poor's; or

(3) Operated at a deficit equal to 5% or more of total annual revenue in each of the past 2 fiscal years; or

(4) Receives an adverse opinion, disclaimer of opinion, or other qualified opinion from the independent certified public accountant auditing its financial statement and negatively impacting the current financial position of the local government.

(d) A local government shall disclose in each comprehensive annual financial report (CAFR) all closure and post-closure care costs and corrective action costs, if any, which the local government has assured through the financial test provisions in 40 CFR 258.50.

(e) Disclosure pursuant to (d) above shall include:

- (1) The nature and source of the closure and post-closure care requirements;
- (2) The reported liability at the balance sheet date;
- (3) The estimated total closure and post-closure care cost remaining to be recognized;
- (4) The percentage of landfill capacity used to date; and
- (5) The estimated landfill life in years.

(f) Conformance with Government Accounting Standards Board Statement 18, No. 101-A, published August, 1993 shall be deemed in compliance with (d) above.

(g) Subject to (h) below, a local government may use the state approved local financial assurance test to assure closure, post-closure, and corrective action costs that equal up to 43% of the local government's total annual revenue.

(h) If the local government assures other environmental obligations through a financial test, including those associated with underground injection control wells (UIC) facilities under 40 CFR 144.62, petroleum underground storage tank facilities under 40 CFR 280, PCB storage facilities under 40 CFR 761, and hazardous waste treatment, storage, and disposal facilities under 40 CFR 264 and 265, it shall:

- (1) Add those costs to the closure, post-closure, and corrective action costs it seeks to assure through use of the state approved local financial test; and
- (2) Assure that the total shall not exceed 43% of the local government's total annual revenue.

(i) A local government shall obtain an alternate financial assurance instrument as specified in Env-Wm 3103.03 or Env-Wm 3103.06 for those costs that exceed the limits set in (g) and (h) above.

Source. #6619-B, eff 10-29-97

Env-Wm 3103.06 Local Government Guarantee.

(a) For a facility meeting the requirements of Env-Wm 3103.04(c), a local government may assure its obligations by obtaining a written guarantee provided by a guarantor pursuant to (b) below.

(b) The guarantor shall be a political subdivision in New Hampshire and comply with the terms of the written guarantee.

(c) The guarantee shall:

- (1) Provide that if the permittee fails to perform closure, post-closure care, and/or corrective action for a facility covered by the guarantee, the guarantor shall:
 - a. Perform, or pay a third party to perform, closure, post-closure care, and/or corrective action as required; or
 - b. Establish a fully-funded trust fund as specified in 40 CFR 258.74(a) identifying the state of New Hampshire as the intended beneficiary and established in accordance with the laws of the state of New Hampshire;

(2) Include provisions specifying that the guarantee shall remain in force until the earlier of the following dates:

- a. 120 days following the receipt date of a written notice of cancellation sent by certified mail, return receipt requested to the local government and to the department; or
- b. The date the local government implements an approved financial assurance replacement pursuant to Env-Wm 3105.03; and

(3) Include a provision specifying that if the guarantor ceases to meet the requirements in Env-Wm 3103.05, the guarantor shall provide alternate assurance for the duration of the agreement.

Source. #6619-B, eff 10-29-97

PART Env-Wm 3104 REVIEW AND APPROVAL

Env-Wm 3104.01 Review. The department shall review a proposal for financial assurance as part of the permit application or closure plan review process, as applicable.

Source. #6619-B, eff 10-29-97

Env-Wm 3104.02 Approval. A proposal for financial assurance shall not be approved if the department determines that the proposal does not:

- (a) Meet the requirements for financial assurance specified in this part; or
- (b) Satisfy the requirements of RSA 149-M:9,X.

Source. #6619-B, eff 10-29-97

PART Env-Wm 3105 ADJUSTMENTS AND CHANGES

Env-Wm 3105.01 Modifications.

(a) Any proposal to change an approved financial assurance plan shall be submitted to the department as an application for a type II permit modification pursuant to the provisions of Env-Wm 315.

(b) Applications to modify an approved financial assurance plan shall include all of the information required by Env-Wm 3104.01.

Source. #6619-B, eff 10-29-97

Env-Wm 3105.02 Annual Updates.

(a) A permittee shall submit an annual update of the facility's closure cost estimate to the department no later than the anniversary of the permit issue date or an alternative date agreed upon by the department and the permittee in writing.

(b) The financial assurance mechanism shall be updated in an amount consistent with the most current closure cost estimate.

(c) A local government using either of the mechanisms in Env-Wm 3103.05 or Env-Wm 3103.06 shall submit documentation required in Env-Wm 3103.01(b)(4) annually within 180 days following the close of the local government's fiscal year.

Source. #6619-B, eff 10-29-97

Env-Wm 3105.03 Replacement.

(a) A permittee shall submit a revised financial assurance plan for approval pursuant to Env-Wm 3105.01 within 30 days of learning that any portion of its financial assurance shall be canceled or not renewed by the issuer.

(b) The permittee shall demonstrate that it has obtained replacement financial assurance promptly upon receiving the department's approval of a revised plan, but no later than 30 days before the cancellation or expiration date of the existing financial assurance.

(c) A local government using the state approved local government financial test to assure its obligations shall satisfy the requirements of the financial test at the close of each fiscal year. If the local government no longer meets the requirements of the local government financial test it shall, within 210 days following the close of the local government's fiscal year, obtain alternative financial assurance as specified in Env-Wm 3103.03.

Source. #6619-B, eff 10-29-97

CHAPTER Env-Wm 3200 CERTIFICATION OF WASTE-DERIVED PRODUCTS

Statutory Authority: RSA 149-M:7,VII

PART Env-Wm 3201 PURPOSE AND APPLICABILITY

Env-Wm 3201.01 Purpose. The purpose of the rules in this chapter is to establish criteria and procedures by which waste-derived products, as defined by Env-Wm 102, shall be certified for distribution and use.

Source. #6619-B, eff 10-29-97

Env-Wm 3201.02 Applicability.

(a) The rules in this chapter shall apply to persons distributing or using a waste-derived product in New Hampshire, except wood ash as specified by (b) below.

(b) The rules in this chapter shall not apply to persons who distribute or use wood ash for agricultural land application in compliance with Env-Wm 3400.

Source. #6619-B, eff 10-29-97

PART Env-Wm 3202 CERTIFICATION REQUIREMENTS

Env-Wm 3202.01 Certification Required.

(a) Except as specified by (b) below, no person shall distribute or use a waste-derived product within New Hampshire unless the product is:

- (1) Certified for distribution and use in accordance with this chapter; and
- (2) Used in accordance with the provisions of the certification.

(b) A person distributing and using wood ash for agricultural land application shall comply with the requirements of Env-Wm 3400 instead of the requirements of (a) above.

Source. #6619-B, eff 10-29-97

Env-Wm 3202.02 Status of Certified Waste-Derived Products.

(a) A waste-derived product certified for distribution and use pursuant to this chapter, which is actively managed and used in accordance with the applicable provisions of the certification, shall be deemed not a solid waste and therefore not subject to regulation by the solid waste rules.

(b) Certification granted pursuant to this chapter shall not constitute an endorsement by the department of the waste-derived product.

(c) Certification shall not mean that a product is benign to the environment, public health and safety or that the product will perform according to consumer expectations or manufacturer or distributor representations.

(d) Certification shall not constitute authorization for a facility producing a waste-derived product to be exempt from the solid waste rules. It is the waste-derived product, not the waste used to manufacture the product, which is certified and thereby deemed not a solid waste.

(e) Certification shall not affect any person's obligation to obtain all requisite federal, state or local permits, licenses or approvals to comply with all other applicable federal, state, district or local permits, ordinances, laws or approvals or conditions pertaining to distribution, use and disposal of a certified waste-derived product.

(f) Certification shall not exempt any person from the provisions of RSA 149-M and the solid waste rules when the certified waste-derived product resumes the status of a solid waste, including when it ceases to be actively managed or is otherwise abandoned and/or discarded.

Source. #6619-B, eff 10-29-97

Env-Wm 3202.03 General Provisions for Obtaining Certification.

(a) Waste-derived products shall be certified for distribution and use pursuant to one of the following provisions:

(1) Certain waste-derived products and groups of waste-derived products sharing common characteristics shall be automatically certified by rule, as provided in Env-Wm 3203; and

(2) Waste-derived products not certified by rule pursuant to Env-Wm 3203 shall become certified if, based on an application filed pursuant to Env-Wm 3205, the department determines that the waste-derived product meets the criteria for certification specified in Env-Wm 3204.

(b) Pursuant to Env-Wm 3208, the department shall compile, maintain and distribute a list of all certified waste-derived products including:

(1) Those certified by rule pursuant to Env-Wm 3203; and

(2) Those certified by application pursuant to Env-Wm 3205.

(c) For a non-proprietary waste-derived product not certified and listed pursuant to Env-Wm 3208, any person may seek to have the product certified by filing an application for certification pursuant to Env-Wm 3205.

(d) For a proprietary waste-derived product not certified and listed pursuant to Env-Wm 3208, only the person having proprietary control of the product may file an application for certification pursuant to Env-Wm 3205.

Source. #6619-B, eff 10-29-97

Env-Wm 3202.04 General Requirements and Limitations. Certification of a waste-derived product, whether provided by rule pursuant to Env-Wm 3203 or pursuant to the application provisions of Env-Wm 3205, shall be subject to each of the following general requirements and limitations:

(a) A certified waste-derived product shall not contain:

(1) A hazardous waste;

(2) A hazardous air pollutant including asbestos waste;

(3) Any waste identified in Env-Wm 2600 as non-reusable, including asbestos waste and infectious waste; or

(4) Any other waste requiring treatment and disposal to protect human health and the environment from exposure hazards documented in nationally recognized scientific and public health studies and publications;

(b) A certified waste-derived product, if produced from a waste identified in Env-Wm 2600, shall be subject to the reuse requirements and limitations specified in Env-Wm 2600;

(c) The certified waste-derived product shall not be distributed or used except in compliance with all applicable state and federal laws;

(d) Distributors and users of certified waste-derived products shall manage the products in conformance with the universal environmental performance standards in Env-Wm 2702;

(e) When specified by the solid waste rules as a condition of the certification or when required to comply with state or federal marketing or consumer protection laws, distributors of certified waste-derived products shall disclose the following information to consumers:

- (1) The content and nature of the waste-derived product contained in the product;
- (2) The proper uses of the materials and any restrictions related thereto;
- (3) Any hazards that might result from use of the waste-derived product as directed;
- (4) Proper disposal methods; and
- (5) Other such information as may be required by applicable state or federal marketing or consumer protection laws; and

(f) Certification granted pursuant to Env-Wm 3205 shall be subject to revocation and suspension pursuant to Env-Wm 3209.

Source. #6619-B, eff 10-29-97

PART Env-Wm 3203 WASTE-DERIVED PRODUCTS CERTIFIED BY RULE

Env-Wm 3203.01 Purpose.

(a) The purpose of the rules in this part is to identify waste-derived products which are deemed certified by rule for distribution and use.

(b) The rules in this part are intended to certify by rule all waste-derived products which are common to the market place and pose no greater risk to the environment, public health and safety than exists by distributing and using comparable products which are not waste-derived.

(c) The waste-derived products identified in Env-Wm 3203.04 through Env-Wm 3203.14 are not necessarily mutually exclusive. Due to the diversity of waste-derived products, it is plausible for a given product to be certified for distribution and use under more than one section of this part.

Source. #6619-B, eff 10-29-97

Env-Wm 3203.02 Applicability. The rules in this part shall apply to all persons distributing or using in New Hampshire any of the waste-derived products identified herein as certified by rule for distribution and use.

Source. #6619-B, eff 10-29-97

Env-Wm 3203.03 General Provisions. The waste-derived products identified in Env-Wm 3203.04 through Env-Wm 3203.16 shall be deemed certified for distribution and use, subject to the requirements and limitations specified in Env-Wm 3202.04.

Source. #6619-B, eff 10-29-97

Env-Wm 3203.04 Salvaged Materials and Items.

(a) Salvaged materials and items shall be deemed certified for distribution and use for their original intended purpose provided that when so used, the materials and items shall not pose a greater risk to the environment, public health or safety than when first marketed and used.

(b) Salvaged materials and items specified by (a) above shall include:

- (1) Used equipment which is cleaned, repaired and reconditioned for continued use in a manner consistent with the purpose of the equipment when originally marketed, such as used lawnmowers, tools and furniture;
- (2) Used brick reused as brick;
- (3) Auto parts removed from a vehicle, repaired and/or reconditioned to a serviceable condition, and reused on another vehicle for their originally prescribed purpose;
- (4) Non-hazardous latex paint used as paint;
- (5) Scrap fabric reused as fabric; and
- (6) Scrap lumber reused as lumber.

Source. #6619-B, eff 10-29-97

Env-Wm 3203.05 Cloned Products.

(a) A waste-derived product serving the same purpose and of the same material composition as the discarded product from which it is derived, hereafter referred to as a cloned product, shall be deemed certified for distribution and use for said purpose, provided that the cloned product, when used for its intended purpose, shall not pose a greater risk to the environment, public health or safety than the product from which it is cloned.

(b) Cloned products as specified in (a) above shall include:

- (1) A paper product made from a comparable discarded paper product;
- (2) Glass products made from a comparable discarded glass product;
- (3) A plastic product made from a comparable discarded plastic product;
- (4) A metal product made from a comparable discarded metal product;
- (5) A textile product made from a comparable discarded textile product;
- (6) A wood product made from a comparable discarded wood product;
- (7) An asphalt product made from a comparable discarded asphalt product; and
- (8) A gypsum product made from a comparable discarded gypsum product.

Source. #6619-B, eff 10-29-97

Env-Wm 3203.06 Products from Select Processed Recyclables.

(a) A product which is made by substituting a select processed recyclable material, as defined by Env-Wm 102, for a raw material and which is comparable in form and function, although not necessarily material composition, to an existing non-waste-derived product, shall be deemed certified for distribution and use for the same purpose as the comparable non-waste-derived product, provided that:

- (1) The waste-derived product shall not be used to fill land or water bodies or to amend or mix with soils for agricultural or other purposes, unless the product is also certified for such purpose pursuant to Env-Wm 3203.07; and
- (2) The waste-derived product shall perform as effectively or more effectively than the comparable existing non-waste-derived product(s).

(b) The waste-derived products specified by (a) above shall include:

- (1) Synthetic fabrics made from used plastic soda bottles and other discarded plastic materials, comparable in form, function and performance to non-waste derived fabrics;
- (2) Reflectorized paint produced using glass beads made from discarded glass containers, comparable in form, function and performance to reflectorized paint produced using glass beads from virgin materials; and
- (3) Any product into which a select processed recyclable material is incorporated and which, by form, function and performance, is indistinguishable from a non-waste-derived product in the market place except by knowing through labeling or other external information that the product contains a recyclable material.

Source. #6619-B, eff 10-29-97; amd by #6894-B, eff 12-1-98

Env-Wm 3203.07 Products Meeting Published State or National Standards.

(a) A waste-derived product which meets a published standard shall be deemed certified for distribution and use for the purpose prescribed in the published standard, provided that:

- (1) The standard shall be published by an agency or organization having no direct sales interest in the product, as identified in (b) below;
- (2) Production, distribution and use of the waste-derived product for the intended purpose shall not:
 - a. Cause a violation of the universal environmental performance standards specified in Env-Wm 2702; nor
 - b. Pose a greater risk to the environment, public health and safety than is posed by a comparable existing non-waste-derived alternative product or, if no such comparable product exists, by disposing of the waste of origin in accordance with the solid waste rules.

(b) The published standards referenced in (a) above shall include standards published by:

- (1) The American Society for Testing Materials (ASTM); and
- (2) New Hampshire and federal agencies which establish standards for the procurement and/or distribution of goods for public use and/or consumption, including departments overseeing transportation, environmental protection, health and welfare, agriculture, education and defense.

(c) The subject waste-derived products shall include:

- (1) Coal-fired electric power plant fly ash used as a lightweight aggregate in concrete masonry units meeting the standard published in ASTM C-331-89; and
- (2) Processed glass aggregate for roadway construction meeting a published state or federal highway construction standard.

Source. #6619-B, eff 10-29-97; amd by #6894-B, eff 12-1-98

Env-Wm 3203.08 Waste Paper for Bulking. Shredded waste paper and cardboard shall be deemed certified for distribution and use as a bulking agent for composting, including septage or sludge composting and as a bulking agent for landfilling, including septage or sludge landfilling.

Source. #6619-B, eff 10-29-97; ss by #6894-B, eff 12-1-98

Env-Wm 3203.09 Derivatives of Discarded Wood. Chips, shavings, and sawdust from virgin wood or from pallets or crates meeting the criteria for permit exemption in Env-Wm 302.03(b)(11), shall be deemed certified for distribution and use as:

- (a) Fuel;
- (b) Mulch;
- (c) Animal bedding; and
- (d) A bulking agent for composting or landfilling, including septage or sludge composting or landfilling, provided that at least 80 percent of the wood material is 3/4 inch, or less, in size.

Source. #6619-B, eff 10-29-97; ss by #6894-B, eff 12-1-98

Env-Wm 3203.10 Waste-derived Compost. Compost derived from waste shall be deemed certified by rule for distribution and use as follows:

- (a) If Class AA compost, for use as compost without restriction;
- (b) If Class A compost, for use as compost within the limits identified in Env-Wm 2305.07 and subject to identification in accordance with Env-Wm 2305.09;
- (c) If Class A compost except for particle size being greater than 10 millimeters (0.39 inches), for use in landfill cover systems pursuant to Env-Wm 2305.08.

Source. #6619-B, eff 10-29-97

Env-Wm 3203.11 Soils Decontaminated by Treatment Processes. Clean soil derived from contaminated soil, by having fully treated the soil at an authorized facility to meet the standards specified in Env-Wm 2603, shall be deemed certified for distribution and use as soil, excluding uses:

- (a) In residential applications;
- (b) In playground applications;
- (c) Within the 100-year flood plain or a wetland;
- (d) On or in lands used for the production of crops for direct human consumption;
- (e) Within a recharge area of any sole source drinking water supply; or
- (f) Within 100 feet of any surface water.

Source. #6619-B, eff 10-29-97

Env-Wm 3203.12 Wood Ash as a Bulking Agent or Odor Control Agent. Wood ash that is certified for land application pursuant to Env-Wm 3400 shall be deemed certified for distribution and use as:

- (1) An approved bulking agent for composting, including sludge composting; and
- (2) An odor control agent for septage and sludge management.

Source. #6619-B, eff 10-29-97; ss by #7225, eff 3-31-00

Env-Wm 3203.13 Manufactured Topsoil. Topsoil which is manufactured using wood ash shall be deemed certified for distribution and use as topsoil provided that:

- (a) The wood ash is certified for land application pursuant to Env-Wm 3400; and

(b) The other topsoil ingredients shall be limited to one or more of the following:

- (1) Sludge, if in compliance with Env-Ws 800;
- (2) Yard waste; and/or
- (3) Uncontaminated soil, not including soil certified pursuant to Env-Wm 3203.11.

Source. #6619-B, eff 10-29-97

Env-Wm 3203.14 Coal Ash. Boiler slag from the combustion of coal shall be deemed certified for distribution and use as a raw material for industrial and commercial purposes.

Source. #6619-B, eff 10-29-97

Env-Wm 3203.15 Methane Fuel. Methane fuel derived from the decomposition of waste at an authorized facility shall be deemed certified for distribution and use as fuel, provided that it meets market fuel standards.

Source. #6619-B, eff 10-29-97

Env-Wm 3203.16 Energy. Energy derived from the combustion of solid waste at authorized facilities shall be deemed certified for distribution and use as power.

Source. #6619-B, eff 10-29-97

Env-Wm 3203.17 Cement Kiln Dust. Cement kiln dust shall be deemed certified for distribution and use as an odor control agent for sludge and septage, as provided in Env-Ws 800 and Env-Wm 1600.

Source. #7225, eff 3-31-00

PART Env-Wm 3204 CRITERIA FOR CERTIFICATION

Env-Wm 3204.01 Purpose. The purpose of the rules in this part is to establish the criteria for certifying a waste-derived product for distribution and use pursuant to an application filed in accordance with Env-Wm 3205.

Source. #6619-B, eff 10-29-97

Env-Wm 3204.02 Applicability. The criteria in this part shall apply to having a waste-derived product certified for distribution and use pursuant to the application provisions in Env-Wm 3205.

Source. #6619-B, eff 10-29-97

Env-Wm 3204.03 Certification Criteria. Applicants seeking to have a waste-derived product certified for distribution and use shall demonstrate in the application filed pursuant to Env-Wm 3205 that the overall benefit(s) derived for society from production and use of the product shall exceed the benefit(s) of not producing and using the product, based on the criteria specified in Env-Wm 3204.04 through Env-Wm 3204.06.

Source. #6619-B, eff 10-29-97

Env-Wm 3204.04 Need. The applicant shall demonstrate a need for the waste-derived product based on the following criteria:

(a) The waste-derived product shall either:

- (1) Be comparable in form and function to an existing product in the market place which is not derived from waste, and shall perform as effectively or more effectively than the existing product; or
- (2) Satisfy an identifiable and unfulfilled need in society without violating the universal environmental performance standards in Env-Wm 2702.

(b) There shall be an identifiable user or buyer for the waste-derived product; and

(c) Waste derived products used for agronomic purposes shall provide an identifiable benefit(s) to the sites to which it is land applied.

Source. #6619-B, eff 10-29-97

Env-Wm 3204.05 Product Quality and Quality Control. The applicant shall demonstrate that the production process meets the following requirements:

(a) Production of the waste-derived product shall neither:

(1) Cause a violation of any requirement in Env-Wm 2700; nor

(2) Pose a greater risk to the environment, public health and safety than does the production of an existing comparable non-waste-derived product or, if no comparable non-waste-derived product exists, by directly disposing of the waste in accordance with the solid waste rules;

(b) The physical and analytical characteristics of the waste used to produce the product shall be defined in a written specification;

(c) The physical and analytical characteristics of the waste-derived product shall be defined in a written specification; and

(d) The production process shall include quality assurance/ quality control procedures to assure the defined specifications shall be met through the production process.

Source. #6619-B, eff 10-29-97; amd by #6894-B, eff 12-1-98

Env-Wm 3204.06 Impact on Society. The applicant shall demonstrate that use of the waste-derived product in society shall have a minimal net impact based on the following requirements:

(a) Use of the waste-derived product as intended shall neither:

(1) Cause a violation of any requirement in Env-Wm 2700; nor

(2) Pose a greater risk to the environment, public health and safety than does the use of an existing comparable non-waste-derived product or, if no comparable non-waste-derived product exists, by disposing of the waste in accordance with the solid waste rules; and

(b) Disposal of the waste-derived product shall not pose a greater risk to the environment, public health and safety than would be posed by directly disposing of the waste from which the product is produced.

Source. #6619-B, eff 10-29-97

PART Env-Wm 3205 APPLICATION REQUIREMENTS

Env-Wm 3205.01 Applicability.

(a) Except as specified by (b) and (c) below, the rules in this part shall apply to any person seeking to have a waste-derived product certified for distribution and use.

(b) The rules in this part shall not apply to waste-derived products already certified for distribution and use, as listed by the department pursuant to Env-Wm 3209.

(c) For a proprietary waste-derived product, the rules in this part shall apply only to the person having proprietary control of the product.

Source. #6619-B, eff 10-29-97

Env-Wm 3205.02 Application Content and Format. An application to certify a waste-derived product for distribution and use shall include the information specified in Env-Wm 3205.03 through Env-Wm 3205.09, compiled in the order shown.

Source. #6619-B, eff 10-29-97

Env-Wm 3205.03 Applicant Identification. The applicant shall provide the following information to identify the applicant:

- (a) If an individual, name, mailing address and telephone number; or
- (b) If other than an individual:
 - (1) The information specified in RSA 149-M:10,I(b); and
 - (2) The name, title, mailing address and telephone number of the individual designated by the applicant to be the contact individual for matters concerning the application;
- (c) A statement identifying the applicant's interest in having the waste-derived product certified, including any of the following as applicable:
 - (1) The applicant produces or intends to produce the waste-derived product;
 - (2) The applicant distributes or intends to distribute the waste-derived product to users or other distributors;
 - (3) The applicant generates or intends to generate the waste used to produce the waste-derived product;
 - (4) The applicant collects or intends to collect from generators or others, the waste used to produce the waste-derived product; and/or
 - (5) The applicant uses or intends to use the waste-derived product.

Source. #6619-B, eff 10-29-97

Env-Wm 3205.04 Product Identification and General Description. The applicant shall provide the following information to identify and describe in general terms the subject waste-derived product:

- (a) Product name, including:
 - (1) A common name which denotes the general purpose of the product, such as "aggregate," "driveway sealer," "glue," or "absorbent"; and
 - (2) A trade name, if applicable;
- (b) General product description, including:
 - (1) Purpose(s) for which the product will be used; and
 - (2) Physical appearance of the product, distinguishing characteristics, and waste and other material content;
- (c) Identification of a comparable existing non-waste-derived product(s), if any, by common name and trade name if applicable;

(d) A statement identifying the reason(s) why the applicant believes the waste-derived product is not yet certified for distribution and use, including a brief description of the product characteristic(s) or other factors used by the applicant to rule out a determination that the product is already certified by either of the following 2 mechanisms:

(1) By rule pursuant to Env-Wm 3203; and

(2) By department approval of a previously filed application, as determined by the certified waste-derived product listing compiled, maintained and distributed by the department pursuant to Env-Wm 3208.

Source. #6619-B, eff 10-29-97

Env-Wm 3205.05 Manufacturer Identification. The applicant shall provide the following information to identify the manufacturer(s) of the waste-derived product:

(a) A statement identifying whether the waste-derived product is a proprietary product;

(b) If the waste-derived product is proprietary, identification of the person(s) having proprietary control of the product, including:

(1) For an individual, the individual's name, date of birth, mailing address and telephone number; and

(2) For other than an individual:

a. The information specified in RSA 149-M:10,I(b); and

b. The name, title, mailing address and telephone number of the person designated by the applicant to be the contact person for matters concerning the application; and

(c) If the waste-derived product is non-proprietary, the name(s) and location(s) of all existing manufacturers and potential manufacturers known to the applicant, including the applicant if applicable.

Source. #6619-B, eff 10-29-97

Env-Wm 3205.06 Production. The applicant shall provide the following information to describe the production process:

(a) Identification and characterization of the waste(s) used to produce the waste-derived product, including:

(1) A brief description of its physical appearance and physical state, including whether the waste is a solid, liquid or gas;

(2) A description of other distinguishing characteristics, including characteristics which have the potential to create a nuisance and/or adversely effect the environment, public health and safety, such as odor, dust, fire, explosion, respiratory hazards including the potential for dust or fumes, and dermal contact hazards for instance chemical burns to skin;

(3) Documentation and materials detailing the general quality of the waste including:

a. Physical, chemical and, where appropriate, biological characteristics of the waste based on current and representative sampling or equivalent documentation and including analytical test results for those constituents that are reasonably thought to be present in the waste and which are known or suspected, by way of published scientific documentation, to pose a potential risk to human health or the environment;

- b. Material safety data sheets for the waste and constituents of the waste, if published pursuant to OSHA regulations; and
 - c. Samples of the waste, if requested by the department to either enhance the department's understanding of the appearance and characteristics of the waste, and/or to verify the applicant's analytical test results in instances where the waste has the potential to contain constituents harmful to human health or the environment;
- (4) Source(s) of the waste, including:
- a. A description of the process by which the waste is generated; and
 - b. Identification of all generators known to the applicant, including name(s) and location(s); and
- (5) Estimated quantity of waste generated annually in New Hampshire; and
- (b) A detailed description of the process by which the waste-derived product is or will be produced, including:
- (1) Product specifications, establishing:
- a. Material and waste content;
 - b. Acceptance limits for material and waste constituents, using physical, chemical and biological parameters as appropriate to the type(s) of material(s) and type(s) of waste being used to produce the waste-derived product; and
 - c. Other factors, as necessary to identify the minimum standards the waste-derived product shall meet prior to being released by the manufacturer for distribution and use;
- (2) Narrative description of the process, from beginning to end, including a description of:
- a. Any processing or treatment applied to the waste prior to producing the waste-derived product;
 - b. Industrial or manufacturing practices and/or technologies used to produce the waste-derived product; and
 - c. Residual and bypass waste management practices;
- (3) Process flow diagrams and/or schematic diagrams as appropriate, depicting the process described pursuant to (2) above; and
- (4) Product quality assurance/quality control procedures used to affirm the waste-derived product meets the standards specified pursuant to (1) above.

Source. #6619-B, eff 10-29-97

Env-Wm 3205.07 Use, Distribution and Markets. The applicant shall provide the following information to describe how the waste-derived product will be distributed and used and to identify markets:

- (a) Description of all intended uses of the product;
- (b) Potential hazards to the environment, public health and safety resultant from product use as intended;
- (c) Description of specific product use and disposal restrictions essential to assuring no increased risk to the environment, public health and safety resultant from use and disposal of the product;

(d) A demonstration of the existence or reasonable expectation of the existence of a market for the waste-derived product, based on the following:

- (1) A comparison of the characteristics and specifications of the waste-derived product or material and the required market characteristics and specifications of the product or material;
- (2) The benefit that will be achieved by use of the waste-derived product;
- (3) Information to document existing use of the same or similar waste-derived product and/or a contract to purchase the waste-derived product;

(e) Estimated market value of the waste-derived product, in dollars; and

(f) Description of how the waste-derived product will be distributed for use.

Source. #6619-B, eff 10-29-97

Env-Wm 3205.08 Demonstration of Criteria. Using the information provided pursuant to Env-Wm 3205.03 through Env-Wm 3205.07, the applicant shall provide a written assessment demonstrating how each of the criteria for certification in Env-Wm 3204.04 through Env-Wm 3204.06 shall be met by the production, distribution and use of the waste-derived product.

Source. #6619-B, eff 10-29-97

Env-Wm 3205.09 Signature and Certification of Application Information.

(a) Each application shall be signed by the applicant.

(b) If the applicant is other than an individual, the application shall be signed by the person(s) so authorized by the applicant.

(c) The signature shall constitute an affirmation that the material and information submitted is correct and complete to the best of his/her knowledge and belief.

Source. #6619-B, eff 10-29-97

PART Env-Wm 3206 APPLICATION FILING

Env-Wm 3206.01 Application Filing.

(a) Applications shall be prepared:

(1) On and with such forms as the department provides; or

(2) If no form shall be provided pursuant to (1) above, on paper supplied by the applicant in a format consistent with the application content and format requirements specified in Env-Wm 3205.

(b) Applications to certify a waste-derived product for distribution and use shall be filed with the department in triplicate.

(c) Each copy of the application filed with the department shall bear an original signature pursuant to Env-Wm 3205.09.

Source. #6619-B, eff 10-29-97

PART Env-Wm 3207 APPLICATION REVIEW

Env-Wm 3207.01 Application Receipt.

(a) Upon receipt of an application, the department shall determine whether the filing requirements in Env-Wm 3206 have been met.

(b) Applications filed contrary to Env-Wm 3206 shall not be processed by the department, but shall be held by the department while the applicant is notified of the deficiency and given an opportunity to correct the deficiency.

(c) If, after notice pursuant to (b) above, the applicant fails to correct the deficiency within 10 working days or within another mutually agreed time, the department shall return the application as filed, with a written explanation as to the reason(s) for returning the application.

Source. #6619-B, eff 10-29-97

Env-Wm 3207.02 Application Completeness Determination.

(a) Within 60 days after the date an application is filed in accordance with Env-Wm 3206, the department shall determine whether the application is complete.

(b) If the applicant submits any information to complete the application between the date of initial filing and the date the application is deemed complete, the 60 day review time shall be measured from the date of latest submittal.

Source. #6619-B, eff 10-29-97

Env-Wm 3207.03 Incomplete Applications.

(a) If the application is incomplete, the applicant shall be so notified in writing as specified by (b) below.

(b) Notice given pursuant to (a) above shall:

- (1) Identify the applicant, type of application and all documents that constitute the incomplete application;
- (2) Identify the deficiencies;
- (3) Provide instructions for completing the application;
- (4) Provide the name, title, mailing address and telephone number of the agency official or employee who may be contacted regarding the application; and
- (5) Alert the applicant to the application dormancy provisions in (g) and (h) below.

(c) In the event that an incomplete application provides information sufficient for the department to determine that the criteria for issuance shall not be met, the department shall deny the requested approval and send written notice thereof in accordance with Env-Wm 3207.05, in lieu of deeming the application incomplete.

(d) If an application is incomplete for incidental and not substantive reasons, the department may so notify the applicant by telephone in lieu of providing a written notice of incompleteness, based on the following criteria:

- (1) The anticipated time required for the applicant to correct the deficiency shall be less than the anticipated time required for the department to notify the applicant in writing; and
- (2) The department shall specify in the verbal notice a reasonable time period, determined in consultation with the applicant, for correcting the deficiency, after which written notice shall be sent by the department in accordance with (b) above if the applicant has failed to respond within the specified time.

(e) Upon notifying an applicant that the application is incomplete, the department shall suspend further processing of the application pending receipt of the additional information required.

(f) No portion of the time between the date a notice of incompleteness is provided and the date the applicant responds shall be included in computing the time limits for processing the application.

(g) The applicant shall submit all information required to complete an incomplete application within one year from the date the application is initially deemed incomplete.

(h) An incomplete application that becomes a dormant application as defined by Env-Wm 102 shall be deemed denied without further action by the department.

Source. #6619-B, eff 10-29-97

Env-Wm 3207.04 Complete Applications. A complete application shall undergo a technical review by the department pursuant to the criteria for certification specified in Env-Wm 3204.

Source. #6619-B, eff 10-29-97

Env-Wm 3207.05 Application Decision.

(a) If the criteria for certification in Env-Wm 3204 are met, the department shall certify the waste-derived product for distribution and use, subject to terms and conditions, by:

- (1) Placing the waste-derived product on the list pursuant to Env-Wm 3208; and
- (2) Notifying the applicant in writing.

(b) If the criteria for certification in Env-Wm 3204 are not met, the department shall deny the requested approval and shall so notify the applicant in writing.

(c) The notice of denial shall:

- (1) Identify the applicant, type of application and all documents that constitute the complete application or, if the decision for denial is made without a complete application pursuant to Env-Wm 3205, all documents submitted by the applicant that form the basis of the decision;
- (2) State the specific reasons for the denial;
- (3) Provide the name, title, mailing address and telephone number of the department official or employee who may be contacted regarding the application and denial;
- (4) Identify the applicable provisions for appeal pursuant to RSA 21-O:9,V; and
- (5) Be signed by the director or person so authorized by the director.

Source. #6619-B, eff 10-29-97

PART Env-Wm 3208 LIST OF CERTIFIED WASTE-DERIVED PRODUCTS

Env-Wm 3208.01 Purpose.

(a) The purpose of the rules in this part is to describe the procedures by which the department shall compile, maintain and distribute a list of all certified waste-derived products.

(b) The purpose for compiling, maintaining and distributing the list as identified in (a) above shall be to provide current information to the public concerning the identity and status of waste-derived products.

Source. #6619-B, eff 10-29-97

Env-Wm 3208.02 Applicability. The rules in this part shall specify the procedures by which the department shall compile, maintain and distribute a list of waste-derived products certified for distribution and use pursuant to this chapter.

Source. #6619-B, eff 10-29-97

Env-Wm 3208.03 Compilation and Maintenance of List.

(a) All waste-derived products certified by rule as specified in Env-Wm 3203 shall be placed on a list for public distribution pursuant to Env-Wm 3208.04.

(b) Any continually generated waste which was certified for reuse under the provisions of Env-Wm 318 in effect prior to and repealed on October 29, 1997, shall be deemed certified for distribution and use pursuant to this chapter and accordingly placed on the list, provided that the waste is a waste-derived product and not a processed recyclable material not yet made into a product.

(c) Each time the department certifies a new waste-derived product by approving an application for certification pursuant to Env-Wm 3205, the department shall add the new certified waste-derived product to the list identified in (a) above.

(d) The information on the list shall include:

(1) Product identification, including:

- a. Common name;
- b. Trade name, if any; and
- c. Description, including waste content;

(2) Identification of the person having proprietary control of the product, if any;

(3) Authorized uses and restricted uses;

(4) Date of certification; and

(5) Reference to all documents which constituted the complete application.

Source. #6619-B, eff 10-29-97

Env-Wm 3208.04 Distribution of List. The list identified in Env-Wm 3208.03 shall be available for public distribution, at no charge, following either a written or verbal request.

Source. #6619-B, eff 10-29-97

PART Env-Wm 3209 REVOCATION AND SUSPENSION OF CERTIFICATION

Env-Wm 3209.01 Applicability. The rules in this part shall apply to actions by the department to revoke or suspend certifications issued pursuant to Env-Wm 3207.05.

Source. #6619-B, eff 10-29-97

Env-Wm 3209.02 Procedure.

(a) Revocation or suspension of certification shall proceed in accordance with RSA 541-A:30 and this part.

(b) Prior to making a decision to revoke or suspend certification, the department shall hold an adjudicative hearing in accordance with Env-C 202.

(c) A written notice of hearing shall be provided to the general public by publication in a statewide newspaper and to persons the department knows to have a direct interest in the product, including product manufacturers, distributors and waste generators.

(d) The hearing notice shall identify:

- (1) The product;
- (2) The action the department proposes to take;
- (3) The reason(s) for the proposed action;
- (4) The department's authority for taking such action;
- (5) The date, time and place for the hearing; and
- (6) The name, title, mailing address and telephone number of the department official or employee who may be contacted regarding the notice.

(e) Certification shall be revoked if the department determines, following the procedures in RSA 541-A:30, that:

- (1) Good cause as provided in Env-Wm 3209.03 exists; and
- (2) There are no circumstances by which the underlying problem can be corrected or eliminated for the product and certification in question.

(f) Subject to (g) below, certification shall be suspended if the department determines, following the procedures in RSA 541-A:30, that:

- (1) Good cause as provided in Env-Wm 3209.03 exists; and
- (2) Given time to do so, there are circumstances by which the underlying problem can be corrected or eliminated, thereafter allowing the certification to be reinstated as originally issued.

(g) Written notice of the department's decision shall be provided to the public, all other persons receiving notice of the hearing pursuant to (c) above and all hearing participants.

(h) Upon revocation or suspension of certification, the department shall remove the waste-derived product from the list maintained pursuant to Env-Wm 3208.

Source. #6619-B, eff 10-29-97

Env-Wm 3209.03 Good Cause. The following shall provide good cause to revoke or suspend certification:

(a) The certification was issued based on false, incomplete or misleading information which, if known at the time the application was being processed, would have prohibited issuance of the certification based on the criteria for certification in Env-Wm 3204;

(b) New information, not available to the department prior to issuance of the certification, becomes available and shows that the waste-derived product does not in fact meet the criteria for certification in Env-Wm 3204;

(c) For a proprietary product, the proprietor meets the criteria for permit denial pursuant to RSA 149-M:9,IX; or

(d) For a proprietary product, the facility producing the product is not in compliance with the solid waste rules and the terms and conditions for facility operation or closure as provided in the facility permit or permit exemption as the case may be.

Source. #6619-B, eff 10-29-97; amd by #6894-B, eff 12-1-98

CHAPTER Env-Wm 3300 SOLID WASTE FACILITY OPERATOR TRAINING AND CERTIFICATION

Statutory Authority: RSA 149-M:7

PART Env-Wm 3301 PURPOSE AND APPLICABILITY

Env-Wm 3301.01 Purpose. The purpose of the rules in this chapter is to implement a solid waste facility operator training and certification program, pursuant to RSA 149-M:6,XIII and RSA 149-M:9,VI, to assure that:

- (a) Solid waste facility operators are qualified to operate and maintain solid waste facilities properly; and
- (b) Solid waste facilities are operated at the highest attainable level of safety and efficiency thereby providing the greatest possible protection to the environment and to public health.

Source. #6619-B, eff 10-29-97

Env-Wm 3301.02 Applicability. The rules in this chapter shall apply to all persons who operate facilities except persons who operate a level I facility as defined by Env-Wm 3302.05.

Source. #6619-B, eff 10-29-97

PART Env-Wm 3302 DEFINITIONS

Env-Wm 3302.01 "Class I incinerator" means a device engineered to burn solid waste for volume reduction under controlled conditions.

Source. #6619-B, eff 10-29-97

Env-Wm 3302.02 "Class II incinerator" means a device engineered to burn solid waste for volume reduction under controlled conditions that recovers energy as a by-product.

Source. #6619-B, eff 10-29-97

Env-Wm 3302.03 "Class III incinerator" means a device engineered to burn infectious waste.

Source. #6619-B, eff 10-29-97

Env-Wm 3302.04 "Interim operator certification" means certification temporarily provided to an operator prior to obtaining certification by completing operator training and certification pursuant to Env-Wm 3303.05.

Source. #6619-B, eff 10-29-97

Env-Wm 3302.05 "Level I facility" means any of the following:

- (a) A permit-exempt facility;
- (b) A permit-by-notification facility having an active life of 90 days or less;
- (c) An emergency permit facility; and
- (d) A research and development permit facility.

Source. #6619-B, eff 10-29-97

Env-Wm 3302.06 "Level II facility" means a facility that is not a level I facility and is a monofill for only brush and stumps.

Source. #6619-B, eff 10-29-97

Env-Wm 3302.07 "Level III facility" means a facility that is not a level I facility and is any of the following:

- (a) A landfill that is permitted to receive 30 tons or less per day of waste on average annually;
- (b) A monofill that only receives scrap metal, construction and demolition debris or asbestos;
- (c) A transfer station, a recycling facility, or a composting facility which receives 30 tons or less of waste per day on average annually; or
- (d) A Class I incinerator.

Source. #6619-B, eff 10-29-97

Env-Wm 3302.08 "Level IV facility" means a facility that is not a level I facility and is:

- (a) A landfill which has a liner system;
- (b) A landfill which is permitted to accept more than 30 tons per day of waste on average annually;
- (c) An ash landfill;
- (d) A transfer station, a recycling facility or composting facility permitted to accept more than 30 tons of waste per day on average annually; or
- (e) A Class II or Class III incinerator.

Source. #6619-B, eff 10-29-97

Env-Wm 3302.09 "Operator training program" means professional and/or technical instruction, provided or sponsored by the department, which supplies the amount of solid waste management information required to pass an examination and obtain certification pursuant to Env-Wm 3303.05.

Source. #6619-B, eff 10-29-97

Env-Wm 3302.10 "Operator training update program" means an operator training program, provided or sponsored by the department, which supplies information and instruction to certified operators seeking certification renewal, said information and instruction being of a nature that refreshes and adds to the operator's existing solid waste management knowledge.

Source. #6619-B, eff 10-29-97

Env-Wm 3302.11 "Responsible charge" means accountability for and performance of active daily on-site operation of a solid waste facility.

Source. #6619-B, eff 10-29-97

Env-Wm 3302.12 "Solid waste facility operator" or "operator" means an individual who is directly involved in solid waste management activities at a facility.

Source. #6619-B, eff 10-29-97

Env-Wm 3302.13 "Solid waste facility operator certification" means the status granted to a solid waste facility operator who demonstrates competency in his/her chosen occupation in accordance with the provisions of Env-Wm 3303. The term includes "operator certification."

Source. #6619-B, eff 10-29-97

PART Env-Wm 3303 PROVISIONS FOR OPERATOR CERTIFICATION

Env-Wm 3303.01 Operator Certification Required. Except as noted in Env-Wm 3301.02, all solid waste facility operators shall be certified by the department for the level of his/her responsibilities as specified by Env-Wm 3303.02.

Source. #6619-B, eff 10-29-97

Env-Wm 3303.02 Levels of Operator Certification. Operator certification shall be granted by level based on a range of responsibilities and duties as follows:

- (a) A certified level IV operator/manager shall be considered qualified to be in responsible charge at a level IV, III, II or I facility and may assume supervisory responsibilities pursuant to Env-Wm 2705.07(b)(2);
- (b) A certified level III advanced operator shall be considered qualified to be in responsible charge at a level III, II or I facility and may assume supervisory responsibilities pursuant to Env-Wm 2705.07(b)(2);
- (c) A level II certified operator shall be considered qualified to be in responsible charge at a level II or I facility but shall not assume supervisory responsibilities pursuant to Env-Wm 2705.07(b)(2); and
- (d) A certified level I attendant and a level I attendant-in-training may work at, but not be in responsible charge at any solid waste facility.

Source. #6619-B, eff 10-29-97

Env-Wm 3303.03 General Provisions for Obtaining Operator Certification.

- (a) A person shall obtain operator certification for a specified level of operator, by:
 - (1) Attending the department's operator training program and passing an examination applicable to the level of certification sought, pursuant to Env-Wm 3303.05; or
 - (2) Receiving reciprocity pursuant to Env-Wm 3303.06.
- (b) Prior to obtaining certification pursuant to either Env-Wm 3303.05 or Env-Wm 3303.06, interim operator certification for a specified level of operator shall be granted to a person pursuant to Env-Wm 3303.04.
- (c) Certification shall be effective for one year from the date of issuance.
- (d) Expiring operator certification shall be renewed pursuant to Env-Wm 3306.01.
- (e) A person may upgrade his/her operator certification to a higher level of operator by attending the operator training program and passing the examination applicable to the higher level.

Source. #6619-B, eff 10-29-97

Env-Wm 3303.04 Interim Operator Certification.

- (a) Interim operator certification shall be automatically granted to applicants who are approved, in accordance with Env-Wm 3304.02(c)(2), to attend operator training.
- (b) Interim operator certification shall be granted for the level of operator that formed the basis of the approved application.
- (c) Interim operator certification shall be effective from the date an approved application is filed to the date that the applicant either obtains operator certification pursuant to Env-Wm 3303.05 or fails to attend operator training or take a required examination as scheduled, whichever is earlier.

Source. #6619-B, eff 10-29-97

Env-Wm 3303.05 Operator Certification by Training and Examination.

- (a) On a semi-annual basis, the department shall administer an operator training program and written examination for operator certification.
- (b) The written examination shall be structured to test the applicant's knowledge of the field of solid waste management for the level of certification sought.
- (c) Persons wishing to attend an operator training program and take the examination shall file an application pursuant to Env-Wm 3304.01.
- (d) The applicant shall be processed in accordance with Env-Wm 3304.02.
- (e) The examinations shall be graded on a pass/fail basis, with the passing score being 70% correct.
- (f) A person who attends an operator training program and passes the examination shall be certified for the level of operator for which the examination was specified.
- (g) Operator certificates obtained by training and examination shall:
 - (1) Be issued in writing;
 - (2) Be effective for a period of one year from the date of issuance; and
 - (3) Be subject to renewal pursuant to the provisions of Env-Wm 3306.01.
- (h) A person who fails the certification examination may retake the examination, at any time convenient to both the applicant and the department and as often as necessary to obtain operator certification. However, after 2 unsuccessful attempts the applicant shall reattend the operator training program prior to retaking the examination.
- (i) Each application for repeat operator training shall be made in accordance with Env-Wm 3304, except no fee shall be required.

Source. #6619-B, eff 10-29-97

Env-Wm 3303.06 Operator Certification by Reciprocity.

- (a) A person having the following credentials shall be eligible for operator certification by reciprocity:
 - (1) The person holds operator certification through private industry or another state which was issued based on a training and examination program comparable in scope to the operator training and certification program provided by the department;
 - (2) The person has successfully completed training by the manufacturer of a specific type of facility for which the department does not offer training; or
 - (3) For incineration facilities, the person is certified pursuant to the American Society for Mechanical Engineers' "Standard for the Qualification and Certification of Resource Recovery Facility," ASME QRO-1-1994 with 1996 addenda.
- (b) An applicant for reciprocity pursuant to (a) above shall submit an application as specified in Env-Wm 3304.01.
- (c) If the director determines that the applicant has the credentials for certification by reciprocity as specified in (a) above and meets all other certification requirements, the director shall issue operator certification.
- (d) Operator certificates obtained by reciprocity shall:

- (1) Be issued in writing;
- (2) Be effective for a period of one year from the date of issuance; and
- (3) Be subject to renewal pursuant to the provisions of Env-Wm 3306.01.

Source. #6619-B, eff 10-29-97

PART Env-Wm 3304 APPLICATION REQUIREMENTS

Env-Wm 3304.01 Application Content and Format.

(a) A person wishing to obtain operator certification shall file a written application which includes the following information on and with such forms provided by the department:

- (1) Applicant name, residential mailing address and telephone number;
- (2) Level of operator certification for which the application is being made, as specified in Env-Wm 3303;
- (3) Proof of qualifications for the desired level of operator certification based on the minimum qualifications specified in Env-Wm 3305, including the following:
 - a. Amount and type of applicable work experience related to or in the field of solid waste management, including for each facility where the applicant has been employed and is currently employed:
 1. Facility name and address;
 2. Type of facility;
 3. Name and title of supervisor;
 4. Applicant's title;
 5. Description of duties; and
 6. Dates of employment; and
 - b. If education is being substituted for experience pursuant to Env-Wm 3305.02, a statement to identify the level of secondary and post-secondary education attained, with a letter from the registrar certifying college education;
- (4) For applications to become certified by reciprocity pursuant to Env-Wm 3303.06:
 - a. Copies of all currently valid operator certifications applicable to solid waste management;
 - b. The name and mailing address of the certifying agency or company;
 - c. A statement identifying whether the operator certification(s) in b above was/were obtained by exam;
- (5) A signed statement by the applicant attesting to the truth and accuracy of the information provided in the application.

Source. #6619-B, eff 10-29-97

Env-Wm 3304.02 Application Filing and Processing.

- (a) Applications for operator certification shall be filed by the applicant with a \$50.00 fee.
- (b) The fee, if paid by check or money order, shall be made payable to "treasurer, State of New Hampshire."
- (c) Applications for operator training and examination shall be processed by the department as follows:
 - (1) The department shall review the application to determine whether all required information is submitted and whether the applicant meets the minimum qualifications required for the level of operator certification sought, as specified in Env-Wm 3305.01;
 - (2) If the application is complete and the minimum qualifications are met, the department shall approve the application, schedule the applicant to attend the next available operator training program and grant the applicant interim certification pursuant to Env-Wm 3303.04;
 - (3) If the application is incomplete, the applicant shall be so notified in writing and provided the opportunity to correct the deficiencies;
 - (4) If the information provided in the application does not demonstrate that the applicant meets the minimum qualifications for operator certification, the applicant shall be so notified in writing and provided the opportunity to submit additional information to demonstrate the minimum qualifications are met or to revise the application for a level of operator certification that is compatible with the applicant's qualifications; and
 - (5) If an applicant fails to meet the minimum qualifications for operator certification:
 - a. The application shall be denied, meaning the applicant shall not be scheduled to attend operator training;
 - b. Interim operator certification shall not be granted; and
 - c. The applicant shall be so notified in writing with the reasons for denial stated.
- (c) Applications for reciprocity shall be processed by the department as follows:
 - (1) The department shall review the application to determine whether all required information is submitted and whether the applicant meets the minimum qualifications required for the level of operator certification sought, as specified in Env-Wm 3305.01;
 - (2) If the application is complete and the minimum qualifications are met, the director shall determine whether the applicant has the credentials for reciprocity as specified in Env-Wm 3303.06(a);
 - (3) If the director determines that the applicant has the credentials for certification by reciprocity as specified in (a) above and meets all other certification requirements, the director shall issue operator certification;
 - (4) If the application is incomplete, the applicant shall be so notified in writing and provided the opportunity to correct the deficiencies;
 - (5) If the information provided in the application does not demonstrate that the applicant meets the minimum qualifications for operator certification, the applicant shall be so notified in writing and provided the opportunity to submit additional information to demonstrate the minimum qualifications are met or to revise the application for a level of operator certification that is compatible with the applicant's qualifications; and

(6) If the applicant fails to meet the minimum qualifications for operator certification or does not have the credentials for reciprocity:

- a. Operator certification shall not be granted;
- b. The applicant shall be so notified in writing with the reasons for denial stated; and
- c. The applicant shall have the opportunity to obtain certification by training and examination.

Source. #6619-B, eff 10-29-97

PART Env-Wm 3305 MINIMUM QUALIFICATIONS

Env-Wm 3305.01 Minimum Qualifications for Operator Certification. The following qualifications shall apply to all candidates for operator certification, whether by reciprocity or by training and examination:

(a) All levels of operators, except a level I attendant-in-training, shall be able to communicate in english;
and

(b) Subject to Env-Wm 3305.02, the following education and experience credentials shall apply:

(1) A level IV operator/manager shall:

- a. Hold a high school diploma or GED; and
- b. Have a minimum of 5 years of experience in a field related to waste management;

(2) A level III advanced operator shall:

- a. Hold a high school diploma or GED; and
- b. Have a minimum of 3 years of experience in a field related to waste management;

(3) A level II operator shall:

- a. Have completed the eighth grade; and
- b. Have a minimum of 2 years of experience in a field related to waste management;

(4) A level I attendant shall have one year of experience in a field related to waste management;
and

(5) A level I attendant-in-training shall require no experience.

Source. #6619-B, eff 10-29-97

Env-Wm 3305.02 Substitutions to Operator Qualifications.

(a) By request of the applicant to the director, the following substitutions shall be made to the requirements of Env-Wm 3305.01, subject to the limitations identified in (c) below:

(1) One year of college education may be substituted for one year experience, up to a maximum of 4 years for level IV operators, 2 years for level III operators and one year for level II operators; and

(2) One year of experience may be substituted for one year of elementary or high school up to a maximum of one year.

(b) High school education shall not be substituted for experience.

- (c) Education applied toward experience shall not also be applied toward the education requirement.

Source. #6619-B, eff 10-29-97

PART Env-Wm 3306 OPERATOR CERTIFICATION RENEWAL

Env-Wm 3306.01 Operator Certification Renewal Requirements.

- (a) Any person seeking operator certification renewal for the same level of operator shall:

- (1) Comply with Env-Wm 3306.02; and
- (2) Submit a written application for renewal pursuant to Env-Wm 3306.03 and Env-Wm 3306.04.

- (b) Any person seeking operator certification renewal for a higher level of operator shall file an application pursuant to Env-Wm 3304 to attend operator training and take the applicable level of examination.

Source. #6619-B, eff 10-29-97

Env-Wm 3306.02 Continuing Education Requirements. Each applicant for renewal shall participate in an operator training update program prior to filing the application for operator certification renewal.

Source. #6619-B, eff 10-29-97

Env-Wm 3306.03 Renewal Applications.

- (a) The application for operator certification renewal shall be submitted on and with such forms as provided by the department.

- (b) The application shall include the following:

- (1) Applicant name, residential mailing address and telephone number;
- (2) Identification of certification currently held, by certificate number, level of operator and date of issuance;
- (3) Name, mailing address, permit number and telephone number of the facility(s) where the applicant is currently employed;
- (4) The name and title of the applicant's supervisor or the facility manager;
- (5) The applicant's current title or position, including a brief description of the duties required of the position;
- (6) If the applicant's current operator certification was issued pursuant to the provisions for reciprocity in Env-Wm 3303.06 and the applicant has changed jobs since the issue date of the current operator certification, information to demonstrate that the provisions for reciprocity remain applicable to the applicant's current job duties; and
- (7) Proof that the applicant has attended an approved operator training update program since the issue date of the applicant's current operator certification, as required by Env-Wm 3306.03; and
- (8) A signed statement by the applicant attesting to the truth and accuracy of the information provided in the application.

Source. #6619-B, eff 10-29-97

Env-Wm 3306.04 Application Filing and Processing.

(a) An application for renewal of operator certification pursuant to Env-Wm 3306.01(a) shall be filed within the time frame specified by (b) below.

(b) To assure issuance of renewal before the applicant's current operator certification expires and to assure each renewal application contains current information, the application shall be submitted not less than 15 days nor more than 90 days before the expiration date of the applicant's current operator certification.

(c) The application shall be processed by the department in accordance with Env-Wm 3304.02, except:

(1) Applications received more than 90 days before the expiration date the applicant's current operator certification shall be returned to the applicant for resubmittal within the time frame specified by (b) above; and

(2) For applications received less than 15 days before the expiration date of the applicant's current operator certification, there shall be no guarantee of renewal prior to the expiration date of the current certification. However, in such cases, the provisions of RSA 541-A:30 shall apply.

(d) Applications for renewal shall be submitted with a \$50.00 fee, except applications received after certification has expired shall be submitted with a \$75.00 fee.

(e) Renewal fees, if paid by check, shall be made payable to "treasurer, State of New Hampshire."

Source. #6619-B, eff 10-29-97; amd by #6894-B, eff 12-1-98

Env-Wm 3306.05 Renewal.

(a) The department shall renew an applicant's operator certification and provide written notice thereof to the applicant provided that:

(1) The application for renewal of operator certification contains all of the information required by Env-Wm 3306.03;

(2) The applicant has complied with Env-Wm 3306.02;

(3) The applicant has carried out his/her operator duties in accordance with the solid waste rules and the facility's permit; and

(4) If renewal is for certification originally obtained by reciprocity, the applicant's current job duties remain within the scope of the provisions for reciprocity.

(b) Renewal of operator certification shall be for the same level of operator.

(c) Operator certification renewal shall:

(1) Be issued in writing;

(2) Be effective for a period of one year from the date of issuance; and

(3) Be subject to renewal pursuant to the provisions of this part.

(d) If the applicant fails to meet the criteria for renewal as provided in (a) above, the applicant shall be so notified in writing.

Source. #6619-B, eff 10-29-97

PART Env-Wm 3307 REVOCATION AND SUSPENSION

Env-Wm 3307.01 Applicability. The rules in this part shall apply to actions by the department to revoke or suspend an operator's certification.

Source. #6619-B, eff 10-29-97

Env-Wm 3307.02 Procedure.

(a) Revocation or suspension of an operator's certification shall proceed in accordance with RSA 541-A:30.

(b) Certification shall be revoked if the department determines, following the procedures in RSA 541-A:30, that:

(1) Good cause as provided in Env-Wm 3307.03 exists; and

(2) There are no circumstances by which the operator can correct or eliminate the underlying problem.

(c) Certification shall be suspended if the department determines, following the procedures in RSA 541-A:30, that:

(1) Good cause as provided in Env-Wm 3307.03 exists; and

(2) Given time to do so, the operator can correct the underlying problem and be qualified to again hold certification for the same level in compliance with the requirements in this chapter.

Source. #6619-B, eff 10-29-97

Env-Wm 3307.03 Good Cause. The following shall provide good cause to suspend or revoke operator certification:

(a) The operator obtained certification through fraud, deceit or falsification, including:

(1) Submission of false or misleading information in the application;

(2) Cheating on the examination; and

(3) Falsifying attendance at operator training and/or update training;

(b) In the performance of her/his duties, the operator has knowingly violated the solid waste rules, conditions of a facility permit, or other rules or permits related to programs administered by the department; or

(c) The operator has failed to comply with an order of the department.

Source. #6619-B, eff 10-29-97

CHAPTER Env-Wm 3400 REQUIREMENTS FOR LAND APPLICATION OF WOOD ASH

Statutory Authority: RSA 149-M:7

PART Env-Wm 3401 PURPOSE AND APPLICABILITY

Env-Wm 3401.01 Purpose. The purpose of the rules in this chapter is to establish criteria and procedures by which ash generated from the combustion of clean wood shall be certified for distribution and beneficial use in agricultural land applications.

Source. #6619-B, eff 10-29-97

Env-Wm 3401.02 Applicability.

(a) Except as provided in (b) below, the rules in this chapter shall apply to any person distributing and using wood ash for agricultural land application in New Hampshire.

(b) The rules in this chapter shall not apply to persons using wood ash from their household wood stove(s) for agricultural land application in New Hampshire.

Source. #6619-B, eff 10-29-97

PART Env-Wm 3402 LAND APPLICATION REQUIREMENTS

Env-Wm 3402.01 Certification Required. No person shall distribute, receive, store or use ash for land application in New Hampshire unless:

(a) The ash shall be certified for distribution and use in accordance with this chapter;

(b) The ash shall be actively managed; and

(c) The ash shall be used in accordance with the provisions of the certification.

Source. #6619-B, eff 10-29-97

Env-Wm 3402.02 Status of Certified Wood Ash. Wood ash certified pursuant to this chapter shall be approved for distribution to and receipt, storage and use by the permit-exempt land application facilities identified in Env-Wm 3404 only.

Source. #6619-B, eff 10-29-97

Env-Wm 3402.03 General Provisions for Obtaining Certification.

(a) The generator of wood ash to be land applied shall obtain the required certification by filing an application pursuant to Env-Wm 3405.

(b) The applicant shall demonstrate in the application that the wood ash meets the criteria for land application in Env-Wm 3403.

(c) The generator shall, as a condition of the certification, continually monitor the quality of the ash in accordance with Env-Wm 3406, unless certified on a one-time basis.

Source. #6619-B, eff 10-29-97

PART Env-Wm 3403 CRITERIA FOR LAND APPLICATION

Env-Wm 3403.01 Source.

(a) Only ash generated from the combustion of clean wood shall be land applied.

(b) Ash generated from the combustion of wood containing any of the following materials or substances shall not be land applied:

- (1) Paints;
- (2) Stains;
- (3) Preservatives; and
- (4) Other materials or substances not naturally occurring in wood.

Source. #6619-B, eff 10-29-97

Env-Wm 3403.02 Quality. Wood ash that is land applied shall:

(a) Not contain heavy metals in excess of the following concentrations, as determined on a dry weight basis:

- (1) For arsenic, 41 mg/kg;
- (2) For cadmium, 39 mg/kg;
- (3) For chromium, 1200 mg/kg;
- (4) For copper, 1500 mg/kg;
- (5) For lead, 300 mg/kg;
- (6) For mercury, 17 mg/kg;
- (7) For molybdenum, 75 mg/kg;
- (8) For nickel, 420 mg/kg;
- (9) For selenium, 100 mg/kg;
- (10) For zinc, 2800 mg/kg; and

(b) Be substantially free of uncombusted material.

Source. #6619-B, eff 10-29-97

Env-Wm 3403.03 Use. Land application of wood ash shall only occur at sites meeting the requirements for a permit exemption in Env-Wm 3404.

Source. #6619-B, eff 10-29-97

PART Env-Wm 3404 PERMIT-EXEMPT LAND APPLICATION FACILITIES

Env-Wm 3404.01 Land Application Sites. Wood ash land application sites shall be exempt from obtaining a permit, subject to meeting the requirements in Env-Wm 3404.02 through Env-Wm 3404.07.

Source. #6619-B, eff 10-29-97

Env-Wm 3404.02 Ash Standards. A permit-exempt land application site shall receive and use only ash certified for distribution and use in accordance with this chapter.

Source. #6619-B, eff 10-29-97

Env-Wm 3404.03 Use. The owner of a permit-exempt land application site shall use the ash received only in accordance with a farm management plan established for the site pursuant to Env-Wm 3404.04.

Source. #6619-B, eff 10-29-97

Env-Wm 3404.04 Farm Management Plan.

(a) Subject to the approval of and supervision by the New Hampshire department of agriculture, a site-specific farm management plan for the land application site shall be developed and approved by the UNH cooperative extension or by private consultants.

(b) The site-specific farm management plan for the permit-by-rule land application site shall include provisions for:

- (1) Ash storage, in conformance with Env-Wm 2702;
- (2) Soil testing as required to assure that the criteria in Env-Wm 3404.05 shall be met; and
- (3) Application rates to assure that the criteria in Env-Wm 3404.05 shall be met.

Source. #6619-B, eff 10-29-97

Env-Wm 3404.05 Maximum Metals Concentration in Soils. Wood ash shall not be applied to land where heavy metal concentrations in the soil exceed the cumulative pollutant loading rates established in Env-Ws 800.

Source. #6619-B, eff 10-29-97

Env-Wm 3404.06 Universal Environmental Performance Requirements. Practices at a permit-exempt wood ash land application site shall not violate the universal facility requirements in Env-Wm 2700.

Source. #6619-B, eff 10-29-97

Env-Wm 3404.07 Recordkeeping.

(a) The owner of the permit-exempt land application site shall maintain records to document the land application practices.

(b) The owner of the permit-exempt land application site shall maintain a copy of the farm management plan with site records.

(c) The generator of certified wood ash shall maintain a copy of the farm management plan for all wood ash land application sites at which the generator's ash is used.

(d) Land application site records and farm management plans shall be made available for department inspection pursuant to Env-Wm 3700.

Source. #6619-B, eff 10-29-97

PART Env-Wm 3405 APPLICATION AND APPROVAL

Env-Wm 3405.01 Application Content and Format. The applicant shall prepare the application for certification including the following:

- (a) Name, address and telephone number of the ash generator;
- (b) Name, address and telephone number of the facility producing the wood ash;
- (c) Volume of wood ash to be land applied, expressed in tons per year; and

- (d) Report of analyses of representative samples of the wood ash pursuant to Env-Wm 3406.01.

Source. #6619-B, eff 10-29-97

Env-Wm 3405.02 Application Filing.

- (a) Applications to certify wood ash for distribution and use shall be filed with the department in duplicate.
- (b) Applications to certify wood ash for distribution and use shall be signed by the ash generator as the applicant.
- (c) The signature of the applicant shall constitute:
- (1) An affirmation that the material and information submitted is correct and complete to the best of his/her knowledge and belief;
 - (2) An affirmation that the facility generating the wood ash only combusts clean wood, as prescribed in Env-Wm 3403.01.

Source. #6619-B, eff 10-29-97

Env-Wm 3405.03 Application Receipt.

- (a) Upon receipt of an application, the department shall determine whether the filing requirements in Env-Wm 3405.02 have been met.
- (b) Applications filed contrary to Env-Wm 3405.02 shall not be processed by the department, but shall be held by the department while the applicant is notified of the deficiency and given an opportunity to correct the deficiency.
- (c) If, after notice pursuant to (b) above, the applicant fails to correct the deficiency within 10 working days or within a mutually agreed time, the department shall return the application as filed, with a written explanation as to the reason(s) for returning the application.

Source. #6619-B, eff 10-29-97

Env-Wm 3405.04 Application Review.

- (a) Within 60 days following the date an application is filed in accordance with Env-Wm 3405.02, the department shall determine whether the application is complete.
- (b) If the applicant submits any information to complete the application between the date of initial filing and the date the department determined the application is complete, the 60 day review time shall be measured from the date of latest submittal.

Source. #6619-B, eff 10-29-97

Env-Wm 3405.05 Incomplete Applications.

- (a) If the application is incomplete, the department shall provide written notice to the applicant wherein:
- (1) The applicant, type of application and all documents that constitute the incomplete application shall be identified;
 - (2) The deficiencies shall be identified;

(3) Instructions shall be provided for completing the application, including the name, title, mailing address and telephone number of the department official or employee who may be contacted regarding the application; and

(4) The applicant shall be alerted to the dormancy provisions in (d) and (e) below.

(b) In the event that an incomplete application provides information sufficient for the department to determine the criteria for issuance are not be met, the department shall deny the requested approval and send written notice thereof in accordance with Env-Wm 3405.07(c), in lieu of deeming the application incomplete.

(c) If an application is incomplete for incidental and not substantive reasons, the department may so notify the applicant by telephone in lieu of providing a written notice of incompleteness, based on the following criteria:

(1) The anticipated time required for the applicant to correct the deficiency shall be less than the anticipated time required for the department to notify the applicant in writing; and

(2) The department shall specify in the verbal notice a reasonable time period, determined in consultation with the applicant, for correcting the deficiency, after which written notice shall be sent by the department in accordance with (a) above if the applicant fails to respond within the specified time.

(d) Upon notifying an applicant that the application is incomplete, the department shall suspend further processing of the application pending receipt of the additional information required.

(e) No portion of the time between the date a notice of incompleteness is provided and the date the applicant responds shall be included in computing the time limits for processing the application.

Source. #6619-B, eff 10-29-97

Env-Wm 3405.06 Complete Applications. A complete application shall undergo a technical review by the department pursuant to the criteria for land application in Env-Wm 3403.

Source. #6619-B, eff 10-29-97

Env-Wm 3405.07 Application Decision.

(a) If the criteria for certification in Env-Wm 3403 are met, the department shall issue a certificate authorizing the distribution and use of the wood ash pursuant to (d) below.

(b) If the criteria for certification in Env-Wm 3403 are not met, the department shall deny the requested approval and shall so notify the applicant in writing.

(c) The notice of denial shall:

(1) Identify the applicant, type of application and all documents that constitute the complete application or, if the decision for denial is made without a complete application pursuant to Env-Wm 3405.05(b), all documents submitted by the applicant that form the basis of the decision;

(2) State the specific reasons for the denial;

(3) Provide the name, title, mailing address and telephone number of the department official or employee who may be contacted regarding the application and denial;

(4) Identify the applicable provisions for appeal pursuant to RSA 21-O:9,V; and

(5) Be signed by the director or a person so authorized by the director.

(d) The certification to distribute and use wood ash shall:

- (1) Identify the person to whom the approval shall be granted;
- (2) Identify the type of approval and authority for issuance;
- (3) Identify all documents that constitute the complete application;
- (4) Identify the specific source(s) of the wood ash to which the certification exclusively applies, including the name of the generator and location of the ash generating facility;
- (5) Specify the terms and conditions under which the approved activity shall be authorized, including:
 - a. The date the approval shall be effective;
 - b. The expiration date, if any, and provisions for renewal as applicable; and
 - c. The requirements specified in Env-Wm 3406; and
- (6) Be signed by the director or a person so authorized by the director.

(e) Any decision by the department to issue certification shall not affect the applicant's obligation to obtain all requisite federal, state or local permits, licenses or approvals, or to comply with all other applicable federal, state, district or local permits, ordinances, laws or approvals or conditions pertaining to the approved activity.

Source. #6619-B, eff 10-29-97

PART Env-Wm 3406 TESTING AND REPORTING REQUIREMENTS

Env-Wm 3406.01 Wood Ash Testing and Reporting.

(a) Wood ash that is land applied shall be tested on at least a quarterly basis using monthly composite samples for all parameters listed in, and in accordance with, (d) below.

(b) Results of wood ash analyses shall be reported to the department upon completion.

(c) Reports shall be filed in accordance with Env-Wm 303.

(d) Analyses of representative samples of wood ash pursuant to (a) above shall be as follows:

- (1) The analyses shall use EPA test procedures in EPA manual SW 846;
- (2) The analyses shall include testing for the following constituents:
 - a. Cadmium;
 - b. Chromium;
 - c. Copper;
 - d. Lead;
 - e. Mercury;
 - f. Nickel;
 - g. Zinc;

- h. Potassium;
- i. Molybdenum;
- j. Selenium;
- k. Calcium;
- l. Magnesium;
- m. Vanadium;
- n. Arsenic;
- o. Boron;
- p. Sodium;
- q. Phosphorus;
- r. Chlorides;
- s. Per cent carbon; and
- t. Lime equivalence; and

(3) The test for metals listed in (2) above shall be for total metals.

Source. #6619-B, eff 10-29-97; amd by #7225, eff 3-31-00

Env-Wm 3406.02 Annual Reporting.

- (a) Generators of wood ash certified for land application shall file an annual report with the department.
- (b) Annual reports shall include the following information:
 - (1) Identification and records of all land application sites which received wood ash;
 - (2) The volume of wood ash, expressed in tons, received by each land application site; and
 - (3) The cumulative loading calculations for metals for each land application site receiving wood ash.
- (c) Reports shall be filed in accordance with Env-Wm 303.

Source. #6619-B, eff 10-29-97

PART Env-Wm 3407 STATUS OF APPROVALS GRANTED BEFORE OCTOBER 29, 1997

Env-Wm 3407.01 Applicability. The rules in this part shall apply to all persons holding a written certification or approval to distribute and use wood ash for agricultural land application granted by the department prior to October 29, 1997 and signed by the director or person so authorized by the director.

Source. #6619-B, eff 10-29-97

Env-Wm 3407.02 Status of Approval.

- (a) A written certification or approval identified in Env-Wm 3407.01 shall remain valid after October 29, 1997.

- (b) The terms and conditions of the certification or approval shall remain unchanged.
- (c) If required for administrative purposes, the department shall:
 - (1) Assign a new number to the certification or approval granted prior to October 29, 1997; and
 - (2) Send written notice thereof to the person holding the certification or approval.

Source. #6619-B, eff 10-29-97

CHAPTER Env-Wm 3500 REDUCTION OF TOXICS IN PACKAGING

Statutory Authority: RSA 149-M:32-40

PART Env-Wm 3501 PURPOSE AND APPLICABILITY

Env-Wm 3501.01 Purpose. The purpose of these rules is to supplement the provisions of RSA 149-M:32-40, relative to reducing heavy metals in package and packaging components as one step in reducing the toxicity of solid waste when it is disposed of by landfilling or incineration.

Source. #5768, eff 12-29-93, EXPIRED 12-29-99

New. #7343, eff 8-12-00

Env-Wm 3501.02 Applicability. These rules shall apply to all package and packaging components sold, offered for sale or otherwise distributed in New Hampshire except as provided by RSA 149-M:35.

Source. #5768, eff 12-29-93, EXPIRED 12-29-99

New. #7343, eff 8-12-00

PART Env-Wm 3502 DEFINITIONS

Env-Wm 3502.01 "Commissioner" means the commissioner of the department of environmental services.

Source. #5768, eff 12-29-93, EXPIRED 12-29-99

New. #7343, eff 8-12-00

Env-Wm 3502.02 "Department" means the department of environmental services.

Source. #5768, eff 12-29-93, EXPIRED 12-29-99

New. #7343, eff 8-12-00

Env-Wm 3502.03 "Division" means the waste management division of the department of environmental services.

Source. #5768, eff 12-29-93, EXPIRED 12-29-99

New. #7343, eff 8-12-00

Env-Wm 3502.04 "Intentional introduction" means the act of deliberately using a regulated heavy metal in the formulation of a package or packaging component where its continued presence in the final package or packaging component is to provide a specific characteristic or quality. The term does not include the use of a regulated heavy metal as a processing agent or intermediate to impart certain chemical or physical changes during manufacturing, whereupon the incidental retention of a residue of the metal in the final package or packaging component is neither desired nor deliberate but is inherent in the process and the final package or packaging component is in compliance with RSA 149-M:34,III.

Source. #7343, eff 8-12-00

Env-Wm 3502.05 "Manufacturer" means any person producing a package or packaging component which is used by a purchaser to package a product.

Source. #7343, eff 8-12-00

Env-Wm 3502.06 "Package" means "package" as defined in RSA 149-M:33,VII.

Source. #7343, eff 8-12-00

Env-Wm 3502.07 "Packaging component" means "packaging component" as defined in RSA 149-M:33,VIII.

Source. #7343, eff 8-12-00

Env-Wm 3502.08 "Person" means "person" as defined in RSA 149-M:4,XV.

Source. #7343, eff 8-12-00

Env-Wm 3502.09 "Petitioner" means a manufacturer or supplier filing a petition for exemption from RSA 149-M:35.

Source. #7343, eff 8-12-00

Env-Wm 3502.10 "Post-consumer material" means "post-consumer material" as defined in RSA 149-M:33,IX.

Source. #7343, eff 8-12-00

Env-Wm 3502.11 "Purchaser" means any person receiving a package or packaging component directly from the manufacturer or supplier of the package or packaging component who then sells or distributes the package or packaging component to a retail consumer.

Source. #7343, eff 8-12-00

Env-Wm 3502.12 "Reformulate" means to change the way a package or packaging component is manufactured so as to result in a different concentration of lead, cadmium, mercury or hexavalent chromium.

Source. #7343, eff 8-12-00

Env-Wm 3502.13 "Supplier" means any person offering to sell or selling a package or packaging component which is used by a purchaser to package a product.

Source. #7343, eff 8-12-00

PART Env-Wm 3503 EXEMPTIONS

Env-Wm 3503.01 Petition for Exemption.

(a) No petition for exemption shall be necessary if a package or packaging component is eligible for an automatic exemption under RSA 149-M:35.

(b) Subject to (c) below, in order for a petition for exemption from RSA 149-M:32-40 to be valid, the manufacturer of the package or packaging component shall file the petition.

(c) If a manufacturer of a package or packaging component does not provide a supplier with a certificate of compliance and the supplier believes the package or packaging component is eligible for an exemption, the supplier may file a petition for exemption.

(d) The petition for exemption shall be filed with the department.

(e) The petition shall include the following:

(1) The name, address, and telephone number of the manufacturer or supplier seeking the exemption;

- (2) The name and position of the individual who can answer questions on behalf of the petitioner about the petition;
- (3) The reason why the exemption is being sought;
- (4) The type of package or packaging component for which the exemption is sought and the use thereof;
- (5) The heavy metals identified in RSA 149-M:32 that are present in the package or packaging components;
- (6) The concentration(s) of the identified heavy metal(s) present in the package or packaging component, and the testing methods used to determine the concentration(s);
- (7) If the package or packaging components are necessary in order to comply with health or safety requirements of federal law as specified in RSA 149-M:35, I(b) identification of the federal law(s) together with a copy of the law(s); and
- (8) If there is no feasible alternative for reducing the identified heavy metals in the package or packaging components, substantiating information addressing the criteria in Env-Wm 3503.02, including a timetable for ongoing and future efforts to achieve compliance through feasible alternatives to using the identified heavy metals.

Source. #5768, eff 12-29-93, EXPIRED 12-29-99

New. #7343, eff 8-12-00

Env-Wm 3503.02 Criteria for Petitioned Exemptions.

(a) No petition for an exemption shall be granted unless the petitioner demonstrates to the commissioner either that:

- (1) The identified heavy metals present in the package or packaging component are necessary in order to comply with federal health or safety requirements; or
- (2) No feasible alternative to the use of the identified heavy metals exists, as "no feasible alternative" is defined in RSA 149-M:35, I(c).

(b) A petitioner shall demonstrate that the identified heavy metals present in the package or packaging component are necessary in order to comply with federal health or safety requirements by providing a copy of the federal requirements together with such additional information as would allow an independent reasonable person to conclude that the metals are necessary.

(c) A petitioner shall demonstrate that no feasible alternative exists to the use of the heavy metal in the package or packaging component by submitting such written materials as would allow an independent reasonable person to conclude that the metals are essential to the protection, safe handling or functioning of the package's contents.

Source. #5768, eff 12-29-93, EXPIRED 12-29-99

New. #7343, eff 8-12-00

Env-Wm 3503.03 Processing of Petition for Exemption.

(a) The department shall notify the petitioner in writing within 5 working days of receiving a petition for exemption that the exemption petition has been received.

(b) The department shall review the exemption petition for completeness within 30 days of receipt.

(c) If the exemption petition is determined to be incomplete, the department shall notify the petitioner within 10 working days of the determination with a specific request for the information needed to complete the application.

(d) If the exemption petition is determined to be complete, the commissioner shall designate staff to review the petition and make a recommendation to grant or deny, within 60 days of designation, based on the criteria specified in Env-Wm 3503.02.

(e) The commissioner shall review the petition, the recommendation, and the criteria specified in Env-Wm 3503.02. If the commissioner determines that the petition meets the criteria, the commissioner shall grant the petition within 30 days of the date it was forwarded, and shall notify the petitioner in writing of the decision.

(f) If the petition is granted, the written notice shall include:

(1) The effective date of the exemption;

(2) The expiration date of the exemption; and

(3) The deadline for the application for renewal of the exemption, which shall be 90 days prior to the expiration date of the exemption.

(g) The petitioner shall send an annual progress report to the commissioner based on the petitioner's efforts to come into compliance with RSA 149-M:32-40.

(h) If the commissioner determines that the petition does not meet the criteria, the commissioner shall deny the petition within 30 days of the date it was forwarded, and shall notify the petitioner in writing of the decision and of the right to appeal under Env-C 204. The written notice shall state the reason(s) for the denial.

Source. #5768, eff 12-29-93, EXPIRED 12-29-99

New. #7343, eff 8-12-00

PART Env-Wm 3504 RENEWAL OF EXEMPTIONS

Env-Wm 3504.01 Request for Renewal of Exemption.

(a) Any manufacturer or supplier seeking a renewal of an exemption received pursuant to Env-Wm 3503.03 shall file a written renewal request at least 90 days prior to the exemption's expiration date.

(b) The renewal request shall contain:

(1) The information specified in Env-Wm 3503.01(d);

(2) The differences, if any, between the information in the renewal request and the information provided with the original exemption petition; and

(3) For exemption renewals based on there being no feasible alternative to the use of the identified heavy metal, a report on progress in meeting the timetable for achieving compliance that was submitted with the original exemption request.

Source. #5768, eff 12-29-93, EXPIRED 12-29-99

New. #7343, eff 8-12-00

Env-Wm 3504.02 Criteria for Renewal of Exemption. Criteria for renewal of exemption shall be as specified in Env-Wm 3503.02.

Source. #5768, eff 12-29-93, EXPIRED 12-29-99

New. #7343, eff 8-12-00

Env-Wm 3504.03 Processing of Petition for Renewal of Exemption. The renewal request shall be processed in accordance with Env-Wm 3503.03.

Source. #5768, eff 12-29-93, EXPIRED 12-29-99

New. #7343, eff 8-12-00

PART Env-Wm 3505 CERTIFICATE OF COMPLIANCE

Env-Wm 3505.01 Availability of Certificate of Compliance.

- (a) Certificates of compliance shall be made available as prescribed by RSA 149-M:36,I.
- (b) If a supplier is unable to obtain a certificate of compliance from a manufacturer of a package or packaging component but has sufficient information to prepare the certificate, the supplier shall prepare the certificate based on that information.
- (c) If a supplier is unable to obtain a certificate of compliance from a manufacturer of a package or packaging component and does not have sufficient information to prepare the certificate, the supplier shall not be guilty of a failure to provide the certificate if the supplier has notified the department in accordance with (e) below that the certificate is unavailable from the manufacturer.
- (d) If a purchaser is unable to obtain a certificate of compliance from a manufacturer or supplier of a package or packaging component, the purchaser shall not be liable for failure to retain the certificate as required by RSA 149-M:36,I if the purchaser has notified the department in accordance with (e) below that the certificate is unavailable from the manufacturer or supplier.
- (e) Notification under (c) or (d) above shall:
 - (1) Be in writing; and
 - (2) Include the following:
 - a. The name, address and telephone number of the person filing the notification;
 - b. The type of package or packaging component for which a certificate cannot be obtained;
 - c. The name(s) and address(es) and, if available, the telephone number(s) of the manufacturer of the package or packaging component;
 - d. If the notice is filed pursuant to (d) above, the name(s) and address(es) and, if available, the telephone number(s) of the supplier(s) of the package or packaging component; and
 - e. A brief summary of the attempts made to obtain the certificate.
- (f) No person shall be held responsible for erroneous information in a certificate of compliance if all of the following are true:
 - (1) The person is not the manufacturer of the package or packaging component;
 - (2) The person did not prepare the certificate;
 - (3) The person did not have any reason to believe the information in the certificate was erroneous; and
 - (4) The person in good faith believed the information in the certificate to be true.

Source. #7343, eff 8-12-00

Env-Wm 3505.02 Certificate of Compliance Contents.

(a) All certificates of compliance for package or packaging components shall be completed by the manufacturer or supplier and included in the shipment of the package or packaging component to the purchaser.

(b) Each certificate of compliance shall include the following:

- (1) Type of package or packaging component;
- (2) Company name;
- (3) Company address;
- (4) Name, signature, and title of authorized official;
- (5) Name and position of the individual who can answer questions regarding the composition of the package or packaging component;
- (6) Date the certificate of compliance is completed;
- (7) Either a statement that there has been no intentional introduction of the identified heavy metals in the package or packaging component, or, for a package or packaging component for which an exemption has been granted under RSA 149-M:35, a statement identifying the applicable exemption which allows the intentional introduction; and
- (8) Either a statement that the total concentration of any incidental amounts of the identified heavy metals in the package or packaging component does not exceed the limit established in RSA 149-M:34 or, for a package or packaging component for which an exemption has been granted under RSA 149-M:35, a statement identifying the applicable exemption allowing the exceedence of the limits.

Source. #7343, eff 8-12-00

Env-Wm 3505.03 Requests for Certificate of Compliance.

(a) Requests for copies of certificates of compliance shall be made in accordance with RSA 149-M:39.

(b) The manufacturer or supplier who receives a request for a certificate of compliance in accordance with RSA 149-M:39 shall provide a copy of the written request to the department with the copy of its response required by RSA 149-M:39.

Source. #7343, eff 8-12-00

Env-Wm 3505.04 Amended Certificate of Compliance.

(a) Amendments to certificates of compliance shall be made in accordance with RSA 149-M:36,II .

(b) In addition to the information specified in Env-Wm 3504.02, the amended certificate shall include the following:

- (1) The previous composition of the package or packaging component;
- (2) The reformulation, including the new level of identified heavy metals used; and

(3) Any difference(s) between the grounds for compliance as stated in the original certificate of compliance and the amended certificate of compliance.

Source. #7343, eff 8-12-00

CHAPTER Env-Wm 3600 SOLID WASTE MANAGEMENT DISTRICTS

Statutory Authority: RSA 149-M:7

PART Env-Wm 3601 APPLICABILITY

Env-Wm 3601.01 Applicability. The rules in this chapter shall apply to all municipalities addressing the management of solid waste as required by RSA 149-M:23 through 25.

Source. #6619-B, eff 10-29-97

PART Env-Wm 3602 DISTRICT AND SUBDISTRICT AGREEMENTS

Env-Wm 3602.01 Filing. Pursuant to RSA 149-M:24,III, solid waste management districts shall file a copy of their written organizational agreement with the department upon execution.

Source. #6619-B, eff 10-29-97

PART Env-Wm 3603 DISTRICT AND SUBDISTRICT SOLID WASTE MANAGEMENT PLANS

Env-Wm 3603.01 District Plan Submittals.

(a) Within 120 days from the date of district formation, a district shall submit to the department for review and approval pursuant to Env-Wm 3604, a solid waste management plan which is endorsed by the district membership.

(b) A copy of the district's minutes approving the submission of the proposed district plan shall constitute evidence that the plan is endorsed by the district members.

Source. #6619-B, eff 10-29-97

Env-Wm 3603.02 District Plan Requirements.

(a) The district plan shall complement the state solid waste plan for the purposes of implementation.

(b) The district plan shall conform to the requirements of RSA 149-M:25 and the requirements in Env-Wm 3603.03 through Env-Wm 3603.06.

Source. #6619-B, eff 10-29-97

Env-Wm 3603.03 Geographics and Economics. The district plan shall include a description of the geographic and economic relationships between the municipalities belonging to the district, including:

(a) A list of municipalities belonging to the district;

(b) A regional map showing:

(1) The location of the municipalities belonging to the district;

(2) Existing road networks; and

(3) Natural geographic features;

(c) Current and projected 5, 10, and 15 year populations and estimated tourist populations within the member municipalities and for the district;

(d) Identification of commercial and industrial activity that affects the population; and

(e) The current municipal solid waste budget for each member municipality and financial reserves accumulated by each municipality for future solid waste expenditures.

Source. #6619-B, eff 10-29-97

Env-Wm 3603.04 Current and Projected Waste Streams.

(a) A district plan shall include a description and analysis of the current and projected 5, 10, and 15 year waste streams generated by the member municipalities as to the type, volume and weight.

(b) The description and analysis shall include, for each member municipality, the quantity of:

- (1) Residential waste generated;
- (2) Commercial and industrial waste generated;
- (3) Potential recyclable material, identified by type;
- (4) Waste actually being recycled;
- (5) Motor vehicle waste, including used oil, wet-cell batteries and tires generated;
- (6) Yard waste generated;
- (7) Construction and demolition debris generated;
- (8) Incinerator bottom ash and fly ash generated;
- (9) Bulky wastes including metals generated;
- (10) Stumps and brush generated;
- (11) Household hazardous waste generated;
- (12) Infectious waste generated; and
- (13) Other wastes generated, particular to the district.

(c) The description and analysis shall include the total quantity of waste generated by each member municipality and the district.

Source. #6619-B, eff 10-29-97

Env-Wm 3603.05 Existing Waste Disposal Facilities and Programs. A district plan shall include an analysis of the existing waste management facilities and practices active within the district, including:

(a) A list and description of facilities located in the district, including the following information for each facility:

- (1) Facility type;
- (2) Facility location;
- (3) Facility owner;
- (4) Facility operator;
- (5) Description of operations;

- (6) Estimated facility life expectancy and remaining capacity;
 - (7) Types and amounts, by weight and volume, of waste handled annually;
 - (8) Facility users;
 - (9) Permit and compliance status of the facility; and
 - (10) All contractual arrangements by member municipalities for facility use;
- (b) A description of existing recycling programs, including:
- (1) Materials recycled;
 - (2) Method of collection, sorting, and processing; and
 - (3) Markets;
- (c) An analysis of the network currently available for transporting solid waste within the district and subdistricts, including:
- (1) The waste pickup system;
 - (2) The delivery system; and
 - (3) Destinations; and
- (d) A description of arrangements for managing district generated waste at facilities outside the district, including:
- (1) Inter-municipal and/or contractual arrangements;
 - (2) Types and quantities of waste so managed; and
 - (3) Management locations.

Source. #6619-B, eff 10-29-97

Env-Wm 3603.06 Future Capacity. A district plan shall identify a 10 year capacity for managing waste at existing, expanded, and/or proposed facilities and provisions for an ongoing planning process of 15 years from the date of plan submittal, including:

- (a) Identification and description of planned recycling and waste reduction programs, including:
- (1) Types of materials to be collected and the methods of collection;
 - (2) The facilities for and methods of receiving, storing and processing materials;
 - (3) The markets for use of recycled materials;
 - (4) The economic ramifications to the district and member municipalities from the proposed collection, processing and marketing of recycled waste; and
 - (5) The implementation of programs, including:
 - a. Project coordination;

- b. Activities to educate the public about recycling and waste reduction programs;
- c. Local ordinance provisions to implement the programs;
- d. Provisions for curb-side collection; and
- e. The construction of material recovery facilities;

(b) Identification and description of the management options to be evaluated and/or implemented for non-recyclable solid waste addressing the following factors:

- (1) Environmental issues;
- (2) Economic and financial issues;
- (3) Capacity planning and assured services;
- (4) Technical requirements;
- (5) Land and siting requirements;
- (6) Traffic and transportation issues;
- (7) Regulatory requirements;
- (8) Implementation requirements; and
- (9) Consistency with the solid waste management hierarchy in RSA 149-M:3;

(c) Identification and description of the management methods to be evaluated and the implementation requirements for select wastes, including:

- (1) Composting of organic material;
- (2) Tires;
- (3) Bulky metal wastes;
- (4) Construction and demolition debris;
- (5) Stumps and brush;
- (6) Household hazardous waste;
- (7) Infectious waste;
- (8) Waste oil;
- (9) Wet cell batteries;
- (10) Incinerator ash; and
- (11) Other wastes particular to the district;

Source. #6619-B, eff 10-29-97

Env-Wm 3603.07 Implementation. A district plan shall include a description of how the plan will be implemented including, but not limited to:

- (a) The financial means and organizational structure;
- (b) A schedule of implementation including specific milestones for short and long term activities; and
- (c) A funding mechanism for implementation.

Source. #6619-B, eff 10-29-97

PART Env-Wm 3604 DISTRICT AND SUBDISTRICT PLAN REVIEW AND APPROVAL

Env-Wm 3604.01 District and Subdistrict Plan Review. The department shall review each district plan and provide written notice to the district in accordance with RSA 149-M:25,II.

Source. #6619-B, eff 10-29-97

Env-Wm 3604.02 Approval Process.

- (a) The department shall approve a district plan provided that:
 - (1) The member municipalities have endorsed the plan;
 - (2) The plan affirmatively addresses the criteria in RSA 149-M:25 and each of the requirements in Env-Wm 3603.02 through Env-Wm 3603.07; and
 - (3) The plan is consistent with achieving the solid waste reduction goal in RSA 149-M:2 and the disposal hierarchy in RSA 149-M:3.
- (b) If a district plan does not meet the conditions for approval, the department shall provide a rejection notice pursuant to Env-Wm 3604.03 and require modifications of those portions of the plan that are deficient according to (a) above.
- (c) Districts shall respond to the department's request for modifications and changes within 75 days of receipt of the written notification provided pursuant to Env-Wm 3604.03.

Source. #6619-B, eff 10-29-97

Env-Wm 3604.03 Notification.

- (a) Each municipality in a district shall be notified by the department in writing as to a decision to approve or reject a proposed district plan.
- (b) If the department rejects the plan, the notification shall specify the specific reason(s) for the rejection.

Source. #6619-B, eff 10-29-97

Env-Wm 3604.04 Implementing, Changing and Updating a Plan.

- (a) Pursuant to RSA 149-M:25,II, a district shall begin implementing its plan within 60 days after receipt of written notice approval by the department.
- (b) In order to demonstrate continuous compliance with an approved plan as required by RSA 149-M:25,III and to assure facility permits are issued by the department in conformity with a district plan as required by RSA 149-M:11, a district shall submit any changes to the district plan in writing, to the department 30 days prior to such changes.

(c) Review and approval of the changes shall proceed in accordance with Env-Wm 3604.02 and Env-Wm 3604.03.

Source. #6619-B, eff 10-29-97

Env-Wm 3604.05 District Plan Approval Duration. The approval of a district plan shall be continuous subject to the provisions of Env-Wm 3604.04(b) and RSA 149-M:25, I(e).

Source. #6619-B, eff 10-29-97

CHAPTER Env-Wm 3700 INSPECTION AND ENFORCEMENT

Statutory Authority: RSA 149-M:7

PART Env-Wm 3701 APPLICABILITY

Env-Wm 3701.01 Applicability. All facilities, including permit-exempt facilities, shall be subject to the inspection provisions of this part.

Source. #6619-B, eff 10-29-97

PART Env-Wm 3702 INSPECTION

Env-Wm 3702.01 Right of Inspection. In order to investigate either actual or suspected sources of potential harm to human health or the environment and to ascertain compliance or non-compliance with the solid waste rules, the department shall:

- (a) Inspect any public or private property or premises as authorized by RSA 149-M:6,IV, including collection, storage, transfer, processing, treatment, and disposal facilities;
- (b) Gather evidence on existing conditions and procedures;
- (c) Obtain representative samples of containers, materials and wastes;
- (d) Conduct tests, analyses, and evaluations;
- (e) Photograph containers, tanks, labels, processes or conditions related to waste collection, storage, transfer, processing, treatment, and disposal;
- (f) Inspect and/or be provided copies of any pertinent records, reports of information and test results relating to the requirements of the solid waste rules upon request; and
- (g) Obtain any other information as authorized by law.

Source. #6619-B, eff 10-29-97

Env-Wm 3702.02 Credential Presentation. In conducting an inspection of a facility, department personnel shall, subject to privileges provided for by law, present his/her identification to, in order of preference, the owner or operator or their representative or to the senior company representative present, if any.

Source. #6619-B, eff 10-29-97

Env-Wm 3702.03 Inspection Reports. Upon conducting an inspection of a facility, the department shall, subject to RSA 91-A:

- (a) Make a written report listing the conditions found during the inspection;
- (b) Keep the report on file at the department; and
- (c) Provide a copy of the report to the owner or operator or his agent, if requested.

Source. #6619-B, eff 10-29-97

Appendix I
State Statute Cross Reference Table as required by RSA 541-A:3-a,II

Note: The requirement in RSA 542-A:3-a,II became effective August 25, 1998. Therefore, the information provided in the table below covers only those rules having an effective date on or after August 25, 1998. If you require the same information for a rule having an effective date before August 25, 1998, contact the Department of Environmental Services, Waste Management Division at 29 Hazen Drive, Concord, NH, 03301, telephone (603) 271-2925, for assistance.

<u>Rule Number</u>	<u>State Statute Implemented</u>
Env-Wm 102.04	RSA 149-M:7,XV
Env-Wm 102.99	RSA 149-M:7,XV
Env-Wm 102.169	RSA 149-M:7,XV
Env-Wm 203	RSA 149-M:7,XV
Env-Wm 302.03(b)(10)	RSA 149-M:7, V
Env-Wm 303.07(a)	RSA 149-M:7, III; RSA 149-M:9
Env-Wm 304.08(n)	RSA 149-M:6, V; RSA 149-M:9, VIII; RSA 149-M:11, IV(a)
Env-Wm 305.02(a)	RSA 149-M:9, VIII; RSA 149-M:12
Env-Wm 310.04	RSA 149-M:7, IV; RSA 149-M:9, V
Env-Wm 314.09	RSA 149-M:9, III
Env-Wm 314.10(b)(5)	RSA 149-M:9, III
Env-Wm 315.02(e)(3)	RSA 149-M:6, III; RSA 149-M:7, III; RSA 149-M:9
Env-Wm 2107.03	RSA 149-M:6, III; RSA 149-M:7,II & III; RSA 149-M:9,III
Env-Wm 2107.04	RSA 149-M:6, III; RSA 149-M:7,II & III; RSA 149-M:9,III
Env-Wm 2107.05	RSA 149-M:6, III; RSA 149-M:7,II & III; RSA 149-M:9,III
Env-Wm 2510.09	RSA 149-M:7,II & III, and RSA 149-M:9,III
Env-Wm 2702.04(d)	RSA 149-M:7,II
Env-Wm 2703.02	RSA 149-M:7,II
Env-Wm 2706.01	RSA 149-M:7,XIV
Env-Wm 2804.02(a)	RSA 149-M:6, III; RSA 149-M:7,II & III; RSA 149-M:9,I
Env-Wm 2805.01(a)	RSA 149-M:6, III; RSA 149-M:7,II & III; RSA 149-M:9,I
Env-Wm 2805.02(a)	RSA 149-M:6, III; RSA 149-M:7,II & III; RSA 149-M:9,I
Env-Wm 2904.03	RSA 149-M:7,II
Env-Wm 3001.01	RSA 149-M:41-50
Env-Wm 3001.02(a)	RSA 149-M:50
Env-Wm 3001.02(b)	RSA 149-M:42, IV
Env-Wm 3002	RSA 149-M:42, III
Env-Wm 3003, 3004 and 3005	RSA 149-M:44; 149-M:45 & 149-M:46
Env-Wm 3006.01 - 3006.02	RSA 149-M:41-47; 14-M:49
Env-Wm 3006.03	RSA 149-M:50
Env-Wm 3007.01 - 3007.03	RSA 149-M:50; 14-M:43
Env-Wm 3007.04	RSA 149-M:46
Env-Wm 3008	RSA 149-M:50; 149-M:43; 149-M:48, II, III & VI
Env-Wm 3203.12	RSA 149-M:7,V
Env-Wm 3203.17	RSA 149-M:7,V
Env-Wm 3406.01(d)	RSA 149-M:7,V
Env-Wm 3501.01	RSA 149-M:32
Env-Wm 3501.02	RSA 149-M:34
Env-Wm 3501.03	RSA 149-M:33
Env-Wm 3502.01	RSA 149-M:35
Env-Wm 3502.02	RSA 149-M:35
Env-Wm 3502.03	RSA 149-M:35
Env-Wm 3503.01	RSA 149-M:35
Env-Wm 3503.02	RSA 149-M:35
Env-Wm 3504.01	RSA 149-M:36
Env-Wm 3504.02	RSA 149-M:36
Env-Wm 3504.03	RSA 149-M:36
Env-Wm 3504.04	RSA 149-M:36